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REPORT OF THE INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF THE FORMER YUGOSLAVIA SINCE 1991

SECURITY COUNCIL
Fifty-second year

# Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and to the members of the Security Council the fourth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, submitted by the President of the International Tribunal in accordance with article 34 of its statute (see S/25704 and Corr.1, annex) which states:

> "The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly."

LETTER OF TRANSMITTAL

7 August 1997

Your Excellencies,

I have the honour to submit the fourth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, dated 7 August 1997, to the Security Council and the General Assembly, pursuant to article 34 of the statute of the Tribunal.

Please accept, Excellencies, the renewed assurances of my highest consideration.

(Signed) Antonio CASSESE
President

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# FOURTH ANNUAL REPORT OF THE INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF THE FORMER YUGOSLAVIA SINCE 1991


## SUMMARY

The fourth annual report of the International Criminal Tribunal for the Former Yugoslavia covers the activities of the Tribunal during the period from 1 August 1996 to 31 July 1997.

The first Judges elected to serve at the Tribunal have almost completed their four-year terms and new Judges have been elected by the General Assembly to serve the next term. In the nearly four years that the Tribunal has been in existence, a great deal has been accomplished. The Tribunal has evolved from a resolution of the Security Council into a fully functioning court, with one trial and two sentencing procedures completed, two trials under way and three more trials scheduled.

In the period from 1 August 1996 to 31 July 1997 the Trial Chambers have been busy with the Tadić, Erdemović, Čelebići and Blaškić cases. In the Tadić case, the accused was found guilty on a number of counts involving crimes against humanity and war crimes, and not guilty on several other counts, and sentenced to 20 years' imprisonment. The accused in the Erdemović case, who pleaded guilty to one count of crimes against humanity, was sentenced to 10 years' imprisonment by the Chamber. The accused in these two cases have appealed the judgements of the trial chambers. The Čelebići and Blaškić trials are still under way. Three additional indictees have been arrested by Croatia, the United Nations Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) and the Stabilization Force (SFOR), respectively, and delivered to the Tribunal's Detention Unit, where they are awaiting trial.

The Appeals Chamber, likewise, has been occupied with the appeal lodged in the Erdemović case, as well as with numerous applications for leave to appeal against decisions of the Trial Chambers. The Appeals Chamber has also been seized of appeals lodged in the Tadić case by both the Prosecutor and the accused, the hearings in which will take place later in 1997.

The Office of the Prosecutor has continued with its dual roles of investigating violations of international humanitarian law and of prosecuting cases of such violations in court before the Trial and Appeals Chambers. While it has not submitted any new indictments for public confirmation during the year under review, a number of non-disclosed indictments have been submitted for confirmation. Two such indictments led to the apprehension of two indictees by international forces in the former Yugoslavia. Meanwhile, the field investigations of the Office have continued, including the exhumation of mass graves in the former Yugoslavia, which has unfortunately been hampered by funding and other problems.

The Registry of the Tribunal comprises a Judicial Department and an Administrative Department. The former has continued to provide support to the Chambers and Office of the Prosecutor to enable them to function, besides drafting and adapting legal texts suited to its work. The Administrative Department has undergone expansion in order to cope with the increasing demands placed on it by the increased staff and activity of the other organs of the Tribunal, in particular the Office of the Prosecutor.

The Tribunal has achieved a great deal in the past four years, but it has not yet achieved the 'critical mass' necessary to ensure success in its mission of bringing justice to the former Yugoslavia for the atrocities such as mass killings, rape and 'ethnic cleansing' in all its manifestations, which were committed in the war and which were the reason for the establishment of the Tribunal. Notwithstanding this, a turning point was reached with the momentous arrests by UNTAES and SFOR of two indictees in July 1997. Those arrests are very welcome and it is hoped that such efforts at apprehension of accused persons will continue to be made by SFOR and other bodies.

Nevertheless, certain States and entities in the former Yugoslavia, namely, the Federal Republic of Yugoslavia, Republika Srpska and the Bosnian Croat authorities, continue stubbornly to refuse to arrest indictees. The international community must therefore put unceasing pressure on those non-cooperative parties to meet their international obligations to cooperate with the Tribunal. The de facto immunity from prosecution that a large number of indictees are currently enjoying in the former Yugoslavia as a result of this lack of cooperation is a direct challenge to the United Nations, and to the international community in general.

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# I. INTRODUCTION

1. The present annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, its fourth, covers the period from 1 August 1996 to 31 July 1997 and describes in detail the Tribunal's activities during that period.

2. The principal characteristic of the past year is that the main role of the Tribunal, namely, to bring to justice those responsible for atrocities committed in the recent war in the former Yugoslavia, has gained considerable momentum. Trials have been held and concluded, with two indictees sentenced to terms of imprisonment for, inter alia, crimes against humanity committed against civilians in Bosnia and Herzegovina. The reporting period has also been characterized by the very welcome actions of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) and the Stabilization Force (SFOR) in arresting indictees in Eastern Slavonia and Prijedor, respectively. These arrests represented a historic turning point: for perhaps the first time in history, international forces have arrested persons other than their erstwhile military opponents for the purpose of bringing them to justice before an international court.

3. The main markers of the Tribunal's progress, in broader detail, have therefore been as follows: (a) a judgement has been delivered in the first trial at the Tribunal - the Tadić case - and a sentence has been pronounced upon the accused; (b) another accused, Dražen Erdemović, who pleaded guilty, has been sentenced by the Tribunal and his appeal has been heard; (c) two other trials - the Čelebići case and the Blaškić case - have started and it is expected that they will finish early next year; (d) Croatia has arrested and delivered an accused - Zlatko Aleksovski - to the Tribunal, thereby joining the ranks of Germany, Austria and Bosnia and Herzegovina, which have also arrested accused persons and transferred them to the Tribunal; (e) one accused, Slavko Dokmanović, has been arrested in Eastern Slavonia by the Prosecutor, with the cooperation of UNTAES - the first arrest by either the Prosecutor of the Tribunal or by an international organization; (f) another accused, Milan Kovačević, has been arrested by SFOR in Republika Srpska - the first such arrest by SFOR - while his co-accused, Simo Drljača, who had resisted arrest by firing on the SFOR forces attempting to apprehend him, was killed by those forces in self-defence; and (g) Italy and Finland have signed agreements allowing persons convicted by the Tribunal to serve their sentences in their national prisons.

4. It is worth recalling that the Security Council created the Tribunal, by its resolution 827 (1993) of 25 May 1993, in view of its grave alarm at continuing reports of widespread and flagrant violations of international humanitarian law occurring within the territory of the former Yugoslavia, and especially in Bosnia and Herzegovina, including reports of mass killings, massive, organized and systematic detention and rape of women, and the continuance of the practice of "ethnic cleansing", including for the acquisition and holding of territory, believing that the establishment of an international tribunal and the prosecution of persons responsible for the above-mentioned

violations of international humanitarian law would contribute to ensuring that such violations were halted and effectively redressed, and being convinced that its creation would enable the aim of putting an end to such crimes and of bringing to justice the persons responsible for them to be achieved and would contribute to the restoration and maintenance of peace.

5. That mandate has not yet been properly fulfilled because the vast majority of persons indicted by the Tribunal are still at liberty, ignoring their indictments with seeming impunity. In that respect, a full reckoning remains to be made for the crimes of genocide, "ethnic cleansing", mass killings and rapes committed in the territory of the former Yugoslavia, which the Tribunal was established nearly four years ago to prevent and punish.

6. The Tribunal also continues to suffer from a lack of budgetary resources. Its requests for additional funding and posts have only been met in part, thus causing additional difficulties for the fulfilment of its mandate.

7. For the near future, it will be essential for the Tribunal to construct a second courtroom. On 17 July 1997, the United Kingdom of Great Britain and Northern Ireland very generously offered to pay for the construction of a temporary second courtroom. That donation, of approximately $500,000, was extremely welcome as it will enable trials to be brought forward by as much as a year. In due course, the temporary courtroom should give way to a permanent second courtroom.

## Part one

## MAIN ACTIVITIES OF THE TRIBUNAL TO DATE

## II. THE CHAMBERS

### A. Composition of the Chambers

8. There have been two changes in the composition of the Chambers since last year's annual report, prior to the elections of new Judges. On 6 August 1996, Judge Saad Saood Jan (Pakistan) was appointed to replace Judge Rustam Sidhwa (Pakistan) who had resigned for health reasons on 15 July 1996. On 18 April 1997, Judge Jules Deschênes (Canada) also resigned for health reasons. In a letter informing the Secretary-General of the departure of Judge Deschênes, President Antonio Cassese wrote that Judge Deschênes had been an excellent Judge, always showing the highest judicial skills, impartiality and integrity. He was replaced on 16 June 1997 by Judge Mohamed Shahabuddeen (Guyana).

9. Judge Sidhwa died in Pakistan on 31 March 1997. The news of his death was received by the Tribunal with great sadness. Although his death cut short his contribution to the cause of justice in the former Yugoslavia, his unstinting efforts in that field will long endure.

10. On 20 May 1997, the General Assembly elected 11 Judges to serve four-year terms at the Tribunal, beginning on 17 November 1997. Judge Li Haopei (China) and Judge Ninian Stephen (Australia) did not seek re-election. Five Judges were

re-elected: Judge Antonio Cassese (Italy), Judge Gabrielle Kirk McDonald (United States of America), Judge Claude Jorda (France), Judge Lal Chand Vohrah (Malaysia) and Judge Fouad Abdel-Moneim Riad (Egypt). The six new Judges are Judge Richard George May (United Kingdom), Judge Florence Ndepele Mwachande Mumba (Zambia), Judge Rafael Nieto Navia (Colombia), Judge Almiro Simões Rodrigues (Portugal), Judge Mohamed Shahabuddeen (Guyana) and Judge Wang Tieya (China).

## B. Judicial action

11. The judicial work of the Tribunal has intensified in the past year. As a consequence, the Chambers have continued to forego the previous arrangement of three judicial sessions of approximately 12 weeks each and have instead been sitting continuously since May 1996.

### 1. Judicial orders

#### (a) Indictments and arrest warrants

12. In the past year, the Prosecutor has not publicly submitted any indictments for confirmation. Accordingly the Chambers have not publicly confirmed any new indictments nor publicly issued any arrest warrants in respect of new indictments. One indictment, however, which was confirmed last year on 26 March 1996, was only made public this year, on 27 June 1997. This was the indictment of Slavko Dokmanović, which is discussed further below. Another indictment - confirmed this year - was also made public in the reporting period, namely, the indictment that charged Milan Kovačević, as well as Simo Drljača, with complicity in genocide for the operation of detention camps and "ethnic cleansing" the Muslim population of the Prijedor area of Bosnia and Herzegovina. This case is also discussed below.

13. The main type of judicial order issued in the past year - aside from non-disclosed indictments and arrest warrants - has been the subpoena, in respect of which there have been a number of motions, hearings and decisions, in particular in the Blaškić case. The subpoena hearings were also the occasion for a large number of amicus curiae briefs and appearances, which are discussed in the section on amicus curiae.

#### (b) Subpoenas

14. Subpoenae duces tecum, dated 15 January 1997, were issued by Judge McDonald in the Blaškić case. These were addressed to Croatia and its Minister of Defence and to the Federation of Bosnia and Herzegovina and its Minister of Defence, and directed them to produce documents described in the subpoenas. In two further orders, dated 14 February 1997, Judge McDonald directed that, in the event of a failure to produce the said documents, representatives of Croatia and Bosnia and Herzegovina and their Defence Ministers should appear before her to explain their non-compliance.

15. The order to Croatia was suspended on 19 February 1997 to allow the matter to be resolved informally. Croatia had challenged the legality of the order and subpoena, maintaining that neither international law nor the Tribunal's statute or rules empowered the Tribunal to subpoena State officials.

16. A Trial Chamber consisting of Judge McDonald (presiding), Judge Odio-Benito and Judge Jan rendered a decision on the subject of the subpoena on 18 July 1997, in which it reinstated the subpoena issued on 15 January 1997, addressed to Croatia and its Defence Minister, Mr. Gojko Šušak, on the grounds that the Tribunal has both inherent and express powers to issue a subpoena duces tecum and that States and their officials are under an obligation to comply with such a subpoena. On 25 July 1997, Croatia filed notice of appeal against the said decision, which is currently under consideration by the Appeals Chamber.

## 2. The Erdemović case

### (a) The trial

17. At his initial appearance on 31 May 1996 before Trial Chamber I, composed of Judge Jorda (presiding), Judge Odio-Benito and Judge Riad, Dražen Erdemović pleaded guilty to one count of a crime against humanity for his participation in the summary execution of approximately 1,200 unarmed civilian Muslim men at a farm near Pilica, located in the Zvornik municipality of eastern Bosnia, following the fall of Srebrenica to Bosnian Serb forces in July 1995.

18. A pre-sentencing hearing was held on 19 and 20 November 1996. On 29 November 1996, the Trial Chamber issued its sentencing judgement, in which it sentenced Erdemović to 10 years' imprisonment. As this was the first sentence pronounced by the Tribunal, the Trial Chamber examined the general practice and legal principles governing the sentencing of an accused for crimes against humanity.

### (b) The appeal

19. On 18 December 1996, Erdemović appealed the sentencing judgement, requesting the Appeals Chamber to revise the judgement by suspending or significantly reducing his sentence. Following the submission of briefs by the parties, the Appeals Chamber held a hearing on 26 May 1997 and the judgement was reserved to September 1997.

## 3. The Tadić trial

### (a) Pre-trial proceedings

20. The Tribunal's first trial, of Duško Tadić, started on 7 May 1996 and ended on 28 November 1996. It was held before Trial Chamber II, composed of Judge McDonald (presiding), Judge Stephen and Judge Vohrah. As the first trial, it involved a number of interlocutory decisions on witness protection and other evidentiary matters. Pre-trial proceedings were described in the previous report (A/51/292-S/1996/665).

(b) The trial

21. The Prosecution ended the presentation of its case-in-chief on 15 August 1996, some three months after the trial had started on 7 May 1996. The Prosecution had by then called 76 witnesses, of whom 5 were assigned pseudonyms. One witness, witness H, testified under full anonymity, that is, without his identity being disclosed to the accused. A total of 346 prosecution exhibits were admitted into evidence.

22. Following its unsuccessful submission that there was no case to answer, the Defence started the presentation of its case on 10 September 1996 and called a total of 40 witnesses. Nine of them testified under various sorts of protective measures. In execution of a video-conference decision of 25 June 1996, a video link with Banja Luka was set up from 15 to 18 October, by which means 11 defence witnesses testified. A member of the prosecution team and of the defence team, as well as the Deputy Registrar, were present in Banja Luka for the video conference.

23. The fact that the Defence can properly challenge the credibility of witnesses, even when they have received protection of some sort, became apparent in the course of witness L's testimony before the Trial Chamber. The Defence, having researched the witness's family situation, found discrepancies in his testimony and confronted him with relatives who he had claimed in Court were dead. After a conversation with his family, witness L, who had testified for the Prosecution on 14 and 15 August 1996, stated that he had lied when testifying before the Trial Chamber and that he had not witnessed Duško Tadić committing any of the acts with which the latter was charged. The Trial Chamber instructed the Prosecutor to conduct an investigation into the circumstances surrounding this testimony. On 8 May 1997, the Prosecutor informed the Judges that it did not consider the case of witness L - whose name was now disclosed as Dragan Opačić - to be an appropriate one for prosecution for false testimony under rule 91. Accordingly, in an order of 27 May 1997, the Trial Chamber ordered that the witness be returned to the custody of the authorities of Bosnia and Herzegovina, whence he came and where he was serving a prison sentence of 10 years.

24. After eight weeks of hearings, the Defence ended the presentation of its defence of alibi on 30 October 1996. A total of 40 defence exhibits had been admitted. Two days of rebuttal followed, during which the Prosecution called another 10 witnesses. The Defence did not call any witnesses in rejoinder. After one week of closing arguments by both sides, the trial came to an end on 28 November 1996. The final judgement was rendered on 7 May 1997. The trial had lasted for 23 weeks, and the transcripts of the hearings amounted to a total of 7,004 pages.

(c) The judgement

25. The final judgement was rendered by the Trial Chamber on 7 May 1997. This is the first such judgement by the Tribunal and the first of its kind since the post-Second World War decisions at Nuremberg and Tokyo.

26. The accused was charged with grave breaches of the Geneva Conventions (article 2 of the statute), violations of the laws and customs of war (article 3 of the statute) and crimes against humanity (article 5 of the statute) in connection with events in the opština (municipality) of Prijedor in north-western Bosnia and Herzegovina, in particular during the takeover by Serb forces of the opština in April and May 1992 and the detention and treatment of detainees in camps in the opština, including those at Omarska, Keraterm and Trnopolje, during 1992.

27. By a majority, the Presiding Judge dissenting, the Trial Chamber held that the victims, all of whom were civilians, were not "protected persons" within the meaning of article 4 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 (the Fourth Geneva Convention) because they were not "in the hands of a party to the conflict of which they are not nationals", as required for "protected person" status under the Fourth Convention. While it could be shown that the Bosnian Serb forces operating in the opština of Prijedor, in whose hands the Bosnian victims found themselves, were largely established by, and dependent on the support of, the Government of the Federal Republic of Yugoslavia, the Prosecution had failed to adduce sufficient evidence to show that the Government of the Federal Republic of Yugoslavia or its army (the Yugoslav Army (VJ)) had exercised sufficient control at all relevant times over those forces to make those forces their de facto organs or agents. Hence the Chamber was unable to hold that the Bosnian victims were "in the hands of" the Government of the Federal Republic of Yugoslavia, and hence "in the hands of a party to the conflict of which they are not nationals" within the meaning of article 4 of the Fourth Geneva Convention. Consequently, the charges made pursuant to the Geneva Conventions were considered inapplicable by the majority and the accused was acquitted of them.

28. In a separate and dissenting opinion concerning the applicability of article 2 of the statute and the grave breaches regime, the Presiding Judge concluded that at all times relevant to the indictment, the armed conflict in the opština of Prijedor was international in character, that the victims were protected persons and that article 2 was applicable. She summarized:

> "The evidence supports a finding beyond reasonable doubt that the Republika Srpska Army (VRS) acted as an agent of the FRY ... in regard to the attack and occupation of opština Prijedor during the times relevant to the charges in the indictment and the victims are thus protected persons. The dependency of the VRS on and the exercise of control by the FRY ... support this finding of agency under either the majority's standard of effective control or under the more general test of dependency and control".

29. All other aspects of the judgement and opinion were delivered unanimously by the Trial Chamber. In its verdict, the Trial Chamber held that the accused was not guilty on a number of counts, including each of the charges of murder as a violation of the laws or customs of war and as a crime against humanity since proof that the victims died as a result of the accused's acts was deemed insufficient. However, in respect of count 1 (Persecution), the Trial Chamber did find that the accused had caused the deaths of two policemen by slitting their throats. The Trial Chamber also found the accused guilty on numerous other counts, including cruel treatment as a violation of the laws or customs of

war and inhumane treatment as a crime against humanity, for his involvement in the beatings and deportation of detainees in towns, villages and detention camps in the opština of Prijedor.

(d) The sentence

30. On 14 July 1997, Duško Tadić became the first accused to be sentenced by the Tribunal after a trial following a not guilty plea. The Trial Chamber imposed a number of concurrent sentences, the maximum being 20 years for a crime against humanity (persecution) involving, inter alia, the unlawful killing of two Bosnian policemen, Osman Besić and Edin Besić.

## 4. The Čelebići trial

31. The indictment against Zejnil Delalić, Zdravko Mucić, Hazim Delić and Esad Landžo was confirmed on 21 March 1996, alleging numerous grave breaches of the Geneva Conventions and violations of the laws and customs of war perpetrated against Bosnian Serb detainees at the Čelebići camp in central Bosnia in 1992. This case, which concerns, inter alia, the issue of command responsibility, is the first joint trial to be held before a Trial Chamber of the Tribunal.

32. The accused were each assigned both lead and co-counsel - with one accused also being assigned a third counsel - so that at present the defence team consists of a total of nine defence counsel, three of them coming from the former Yugoslavia. Both the Prosecution and the Defence filed many preliminary motions relating to, inter alia, the form of the indictment, the holding of separate trials and the disclosure of evidence. In an important decision relating to the request for provisional release by the accused Zejnil Delalić, the Trial Chamber decided that among the factors to be taken into account when assessing such a request was the reasonable suspicion that he committed the crime, as well as the length of the accused's detention. All four accused's requests for provisional release were rejected mainly out of a fear of flight. Motions for a separate trial by all four accused have also been rejected by the Trial Chamber.

33. In respect of a number of these decisions, the Defence sought leave to appeal to the full Appeals Chamber, pursuant to rule 72 (B) (ii) of the Rules of Procedure and Evidence. To date, these applications for leave to lodge interlocutory appeal have been refused by the Bench of the Appeals Chamber constituted under the above-mentioned sub-rule.

34. The accused Esad Landžo filed a notice of his intention to raise the defence of alibi, pursuant to rule 67, as well as the special defence of diminished or lack of mental responsibility.

35. The trial commenced on 10 March 1997 before Trial Chamber II, composed of Judge Karibi-Whyte (presiding), Judge Odio-Benito and Judge Jan, and continues to the present. The Prosecution has brought many witnesses who are former detainees of the Čelebići camp and some of whom are the victims of the acts alleged in the indictment.

36. During the course of the trial, several motions for protective measures have been granted to protect witnesses' identities from disclosure to the media or the public. In a decision of 28 May 1997, the Trial Chamber also allowed three prosecution witnesses to testify by means of video-conference, although those witnesses subsequently declined to testify. Other motions dealt with by the Trial Chamber related to the presentation of evidence, the scope of cross examination and the admissibility of prior statements of the accused among others. In addition, the Trial Chamber has had to institute an inquiry into an incident whereby information concerning prosecution witnesses was leaked to the media.

37. On 5 June 1997, the Trial Chamber issued an important decision of principle relating to evidence in cases of sexual assault (rule 96). The Trial Chamber determined that the introduction of evidence concerning prior sexual conduct is totally forbidden by rule 96 (iv). It was decided that information about a witness's abortion may constitute prior sexual conduct and in that case is not admissible into evidence.

38. With the start of trial in the Blaškić case on 23 June 1997 and the lack of any other courtroom facility, the Čelebići trial will now proceed for only two weeks in every month, the other two weeks being allocated to the Blaškić hearings. This has slowed the progress of the Čelebići trial and it appears likely that it will continue well into 1998. Another difficulty that has arisen is that none of the three Judges hearing the case have been re-elected by the General Assembly to serve another term at the Tribunal. The President of the Tribunal has requested clarification from the Secretary-General as to whether the Judges' terms may nonetheless be extended to enable them to sit until the case's conclusion.

### 5. The Blaškić trial

39. General Blaškić was indicted in connection with the "ethnic cleansing" of the Bosnian Muslim population of the Lašva river valley area in central Bosnia and Herzegovina from May 1992 to May 1993. He made his first appearance before a Trial Chamber on 3 April 1996. Pre-trial motions were filed by the accused relating to the indictment, provisional release, modification of his conditions of detention, the protection of victims and witnesses and disclosure of evidence. These motions were heard by Trial Chamber I, composed of Judge Jorda (presiding), Judge Deschênes and Judge Riad.

40. Two requests for provisional release were filed by counsel for Blaškić, on 24 April 1996 and 20 December 1996, respectively. On each occasion Trial Chamber I issued an order denying the motion for provisional release on the ground that the conditions posed by rule 65 were not satisfied. Rule 65 stipulates that the Trial Chamber may order provisional release of the accused only if exceptional circumstances exist and provided that it is satisfied that the accused will appear before the Tribunal and that, if released, will not pose a danger to any victim, witness or other person.

41. The conditions of Blaškić's detention were again modified this year in a decision of the President of the Tribunal rendered on 9 January 1997, which

increased the exercise and fresh-air periods enjoyed by the detainee, as well as permitting him more family visits than he had previously been allowed.

42. The issue of protection of victims and witnesses has been a constant source of contention between the parties in this case. On 4 June 1996, the Prosecution requested measures for the protection of victims and witnesses whose statements accompanied the indictment during confirmation. In its decision of 17 June 1996, the Chamber, in accordance with rule 66 (A), ordered the Prosecutor to transmit those statements to the Defence after redaction of the identifying data. However, the Chamber reminded the Prosecution of its obligation to produce the names and other identifying data to the Defence by a later date. In an application of 24 June 1996, the Prosecutor sought to be relieved from the obligation to disclose all or any part of 10 of 86 witness statements and asked that any hearing before the Trial Chamber be ex parte and in camera. The Trial Chamber in its decision of 18 September 1996 underlined the obligation of the Trial Chambers, pursuant to article 20 of the statute, to ensure that trials are fair and expeditious, with full respect for the rights of the accused and with due regard for the protection of victims and witnesses, and for that purpose must guarantee hearings with both parties present. On those grounds the Chamber rejected the Prosecutor's application. The Chamber confirmed its ruling in a decision of 2 October 1996, although in a decision of 5 November 1996, it granted certain protective measures for two prosecution witnesses (B and C).

43. On 27 January 1997, the Trial Chamber rendered a decision concerning the disclosure obligations of the parties in its decision on the production of discovery materials. The Chamber ordered the Prosecutor to disclose to the Defence the list of names of the witnesses she intended to call at trial and all the previous statements of the accused and the witnesses. The Chamber reminded the Prosecutor of her obligation pursuant to rule 68 to disclose any materials containing exculpatory evidence or to inform the Chamber if its confidentiality should be protected. The Chamber did not, however, order the Prosecutor to disclose the work product of her investigators.

44. In addition to the above motions, the Chamber also rendered four decisions on 4 April 1997 in response to preliminary motions by the accused concerning (a) liability for failure to punish subordinates for violations of international humanitarian law; (b) the mens rea requirement for charges alleging command responsibility; (c) alleged vagueness of the indictment; and (d) the alleged internationality of the armed conflict at issue.

45. The trial proper began on 23 June 1997, with Judge Shahabuddeen replacing Judge Deschênes, and continues for two weeks in every month, the other two weeks being allocated to the Čelebići hearings (see para. 38).

### 6. The Aleksovski case

46. Zlatko Aleksovski, charged on 10 November 1995 in the same indictment as Tihomir Blaškić (see above) for the "ethnic cleansing" of the Bosnian Muslim population of the Lašva river valley area in central Bosnia and Herzegovina from May 1992 to May 1993, was arrested by the Croatian authorities in Split on

8 June 1996 and delivered to the Tribunal earlier in 1997. He made his initial appearance before a Trial Chamber on 29 April 1997, and a status conference was held in his case on 6 June 1997. The trial is due to start next year.

## 7. The Dokmanović case

47. On 27 June 1997, Slavko Dokmanović was delivered to the Tribunal's custody, following his arrest by UNTAES and Tribunal investigators in Eastern Slavonia on that same day. Dokmanović, who was indicted on 26 March 1996 in a confidential amendment to the Vukovar indictment against Mile Mrkšić, Miroslav Radić and Veselin Šljivančanin, was the President of the Vukovar municipality in November 1991, when Yugoslav people's Army (JNA) and Serb paramilitary soldiers removed from the Vukovar hospital approximately 260 men, who were later transported in groups to a site close to Ovčara where they were allegedly executed by shooting.

48. Dokmanović has been temporarily assigned counsel by the Registrar. Counsel filed, on 7 July 1997, a preliminary motion on various matters on behalf of Dokmanović concerning his arrest, the form of the indictment and a separate trial.

## 8. The Kovačević case

49. Milan Kovačević, charged in a non-disclosed indictment on 13 March 1997 with complicity in genocide for crimes committed in the Prijedor municipality between April 1992 and January 1993, was transferred to the Tribunal on 10 July 1997 after his apprehension by SFOR forces in Prijedor in Republika Srpska. Kovačević was a member of the municipality of Prijedor Crisis Staff and the President of the Executive Board of the municipality during the period in question. Kovačević has been assigned counsel by the Registrar.

## 9. Amicus curiae

50. Pursuant to rule 74, a Chamber may, if it considers it desirable for the proper determination of the case, invite or grant leave to a State, organization or person to appear before it and make submissions on any issue specified by the Chamber. In the past year, a number of persons and organizations have sought leave to appear as amicus, including in the Blaškić and Erdemović cases.

51. In an order submitting the matter to Trial Chamber II and inviting amicus curiae, issued on 14 March 1997 in the Blaškić case, Judge McDonald directed that a hearing on the issuance of a subpoena duces tecum be held before Trial Chamber II, composed of Judges McDonald, Odio-Benito and Jan, instead of a single Judge, considering the significance of the issues to be addressed. In the same order, Judge McDonald invited requests for amicus curiae briefs on the following questions by 7 April 1997:

(a) The power of a Judge or Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia to issue a subpoena duces tecum to a sovereign State;

(b) The power of a Judge or Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia to make a request or issue a subpoena duces tecum to a high government official of a State;

(c) The appropriate remedies to be taken if there is non-compliance of a subpoena duces tecum or request issued by a Judge or a Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia;

(d) Any other issue concerning this matter.

52. A number of persons or organizations filed motions and were granted leave, on 11 April 1997, to file amicus curiae briefs or to appear as amicus curiae.[1] Seven of the amici curiae subsequently appeared before the Trial Chamber to present oral arguments. The Appeals Chamber currently reviewing the case has also invited amicus curiae briefs to be submitted by States, organizations and persons on the same above-mentioned questions.

## 10. Interlocutory appeals

53. As noted in the previous annual report, rule 72 (B) was amended at the eleventh plenary session in order to allow interlocutory appeal, that is, provisional appeal before the end of the trial, from decisions rendered by Trial Chambers on parties' preliminary motions. Under the rule, a panel of three Appeals Chamber Judges may grant leave to the applicant upon a showing of "serious cause". This new sub-rule was first applied in the Čelebići case, in a decision rendered by the three-member panel, or Bench, of the Appeals Chamber on 14 October 1996. The Bench stated that the new sub-rule is intended to create a "filter" for appeals relating to matters other than jurisdiction in order to prevent the Appeals Chamber from being flooded with unimportant or unnecessary appeals which unduly prolong pre-trial proceedings.

54. The sub-rule has since been invoked on a number of occasions - five times in the Čelebići case and once in the Blaškić case - but so far the Bench of the Appeals Chamber has not found "serious cause" to exist and therefore has not granted leave to appeal.

## 11. Rule 61 proceedings

55. There have been no rule 61 hearings in the reporting period, although the preparatory stages for such hearings, namely, advertisement of the indictment and the taking of all other reasonable steps to effect personal service of the indictment on the accused under rule 60, have been completed in several cases, namely the Borovnica, the Omarska Camp, the Keraterm Camp, the Bosanski Samać, the Brčko, the Lašva river valley and the Foča cases.

## C. Regulatory activity

### 1. Amendments to the Rules of Procedure and Evidence

56. The Tribunal's Rules of Procedure and Evidence were adopted by the Judges at the end of their second plenary session, in February 1994, and have subsequently been amended a number of times. In the past year, the Rules have been amended at the twelfth and thirteenth plenary sessions. At the twelfth plenary session, held on 2 and 3 December 1996, the following rules were amended: rules 50 (A), 51 (A), 63 and 66 (A). At the thirteenth plenary session, held on 24 and 25 July 1997, more extensive amendments were adopted.[2] Although the majority of these amendments were for the purposes of harmonization of the French and English texts,[3] there were substantive amendments to 22 rules and 3 new rules were adopted, namely, rules 7 bis, 65 bis and 108 bis.

### 2. Amendments to other Tribunal rules and regulations

57. In addition to the Rules of Procedure and Evidence, the Tribunal is regulated by a number of other sets of rules and regulations, such as the Rules of Detention and the Regulations for Detainees, which set out the precepts regarding persons detained at the United Nations Detention Unit in The Hague. In addition, the Tribunal has issued a directive on the assignment of defence counsel, which addresses issues relating to the appointment of counsel for indigent accused. The Rules of Detention have been amended in the past year, adding two new rules - rule 36 bis and rule 36 ter, concerning the searching and the monitoring, respectively, of detainees' cells - and modifying rule 63 in order to control visits to the detainee by representatives of the media.

## III. THE OFFICE OF THE PROSECUTOR

### A. Overview: investigations, prosecutions and arrests

58. During the period under review, the Office of the Prosecutor has continued to focus on its two principal tasks: to investigate and to prosecute persons, especially those in positions of authority or leadership, who were responsible for the planning and implementation of the most serious violations of international humanitarian law that have occurred in the territory of the former Yugoslavia since 1991. Investigation activity has been intense, with 22 separate investigations in progress at the time of reporting. A major shift in focus towards the second aspect of the Prosecutor's mandate has taken place during the period: the prosecution of accused persons. The Prosecutor has brought four cases - Erdemović, Tadić, Čelebići and Blaškić - before the Trial Chambers. The Prosecutor is currently carrying out pre-trial work on three other cases of accused persons who are awaiting trial in the Tribunal's Detention Unit. Detailed summaries of trial activity are provided in chapter II above.

59. In addition to the investigation and trial work undertaken during the period under review, the Prosecutor has spent considerable time and effort to urge States: (a) to fulfil their obligations to turn over persons indicted of

war crimes and crimes against humanity to the Tribunal; and (b) to comply with requests for assistance in the collection of evidence and with the conduct of on-site investigations.

60. In response to the dilatoriness of some States to hand over indicted persons to the Tribunal, the Prosecutor decided to implement a new strategy that would lead to their detention and arrest. The Prosecutor requested the Trial Chambers that certain new indictments and certain amendments to existing indictments not be disclosed, that is, remain confidential, and that the names of suspects not be released until they are apprehended. Such indictments were then handed over to those entities which had the authority and opportunity to detain the indicted persons. In June and July 1997, this new strategy resulted in the detention and arrest of two indictees - Slavko Dokmanović and Milan Kovačević - as described above (paras. 47-49).

## B. Appointment of a new Prosecutor

61. By its resolution 1047 (1996) of 29 February 1996, the Security Council appointed Ms. Louise Arbour (Canada) the new Prosecutor of the International Tribunals for the Former Yugoslavia and for Rwanda. Ms. Arbour, a Judge of the Court of Appeal for Ontario and an expert in criminal law, succeeded Mr. Richard J. Goldstone (South Africa) and took office on 1 October 1996.

## C. Activities related to investigations

62. Criminal investigations in the Office of the Prosecutor continue to be undertaken by multidisciplinary teams assigned to specific cases. Most evidence-gathering is done in the former Yugoslavia with analysis of material and prosecution and investigation strategies developed in The Hague.

### 1. Establishment of field offices

63. Support for investigators working in the field is managed in part through three field offices in the former Yugoslavia. In addition to the previously established office located in Zagreb, two other offices were officially opened in Sarajevo and Belgrade in August 1996. The field offices provide support to the investigators working in the former Yugoslavia, screen witnesses, assist with the transportation of witnesses to The Hague and serve as Tribunal contact points for local and national Governments, international organizations, non-governmental organizations, United Nations organizations and agencies, the Implementation Force (IFOR) and SFOR.

### 2. Investigations into mass grave sites and exhumations (1996)

64. The Office of the Prosecutor undertook a major project in 1996 to conduct investigations into the mass killings of civilians. Between July and November 1996, a team of Tribunal forensic experts exhumed five mass graves in the former Yugoslavia. Exhumations were only conducted at sites where it was

believed significant evidence could be obtained to support indictments or to provide evidence in support of future indictments. Evidence obtained as a result of exhumations can be the most powerful proof of particular events and may provide corroboration of eye-witness testimony.

65. During 1996, the Office of the Prosecutor conducted exhumations of human remains from five sites; four of these sites are in Bosnia and Herzegovina (Cerska, Nova Kasaba, Lazete and Pilica) and were selected because they were believed to contain evidence related to the fall of Srebrenica in 1995. For instance, Cerska valley was a site where witness testimony revealed that men who had surrendered to soldiers while trying to flee the Srebrenica enclave on foot were transported up the valley, ordered off the buses and executed. This testimony was corroborated when Tribunal forensic investigators exhumed 155 bodies from the Cerska grave, many with their hands tied. From the four sites in Bosnia and Herzegovina, over 450 bodies were recovered revealing evidence similar to that found at the Cerska site.

66. The fifth grave exhumed was located at Ovcara, near Vukovar, in Croatia. A total of 200 bodies were recovered from this grave, allegedly civilians removed from the Vukovar hospital and executed following the capture of the city in 1991 (see the Dokmanović case, paras. 46 and 47). The exhumation and subsequent post-mortem examinations provided investigators with corroboration as to the manner and cause of death of the bodies found in the mass grave.

67. Following the exhumation of the mass graves, all the bodies underwent autopsies by a team of pathologists to determine the cause and manner of death as well as the demographic profile of the victims. Evidence of personal identification was also collected in some of the cases. At the completion of the autopsies, all remains and personal effects were returned to the relevant government officials for the ongoing identification process and the return of victims' remains to the families for reburial.

### 3. Investigations into mass grave sites and exhumations (1997)

68. The exhumation programme for 1997 commenced in early July after a delayed start due to funding problems. An extraordinary appeal for $2.2 million was made by the Prosecutor to Member States and the response enabled the project to begin. Exhumation of the first site, a mass grave near Brčko, in Bosnia and Herzegovina, began in July 1997. The initial work involved demining and removing a large amount of rubble that had been deposited on the surface. At the time of reporting, no results have been made public. Plans are in place for additional sites to be exhumed following completion of the Brčko grave. The Office of the Prosecutor is indebted to the following States for their contributions to the project: Austria, Canada, Malaysia, Netherlands, Sweden, Switzerland and United States of America.

### 4. Cooperation with the Implementation Force/Stabilization Force and other organizations in the former Yugoslavia

69. Productive working relationships with organizations in the former Yugoslavia are essential to the success of the Prosecutor's investigations. Since the General Framework Agreement for Peace in Bosnia and Herzegovina and the annexes thereto (see A/50/790-S/1995/999) was signed in December 1995, the Prosecutor has established and maintained a valued working relationship with IFOR/SFOR. The Prosecutor and members of her staff have met the Secretary-General of the North Atlantic Treaty Organization (NATO) and the Supreme Allied Commander in Europe to work out modalities of cooperation and assistance. The continued assistance from IFOR and SFOR troops for the exhumation programmes was essential for their success as well as for numerous missions by investigators into insecure areas in the former Yugoslavia. The detention of two indicted persons by personnel from SFOR and UNTAES has been perceived as a critical turning point indicating a new determination on the part of organizations and States to assist the Tribunal. Other organizations in the former Yugoslavia that have been of assistance to the Prosecutor during the period are the peacekeeping missions, the United Nations Transition Office in the former Yugoslavia, the United Nations Mission in Bosnia and Herzegovina (UNMIBH) and the Office of the High Representative.

### 5. Development of prosecution and investigation strategies

70. In September 1996, the Office of the Prosecutor undertook to examine and assess its investigation strategy. A two-day meeting of staff of the Office was convened in the presence of both the outgoing and incoming Prosecutors. The purpose was to take stock of current policies related to investigation practices as they had evolved since the inception of the Tribunal, to assess the existing investigations criteria and to evaluate the investigation strategy.

71. From 24 to 26 March 1997, the Prosecutor convened a three-day meeting in Arusha to discuss the use of evidence of sexual violence in the investigations and prosecutions of the Office of the Prosecutor of both Tribunals and in particular to identify measures that would further harmonize investigation and prosecution approaches to sexual violence. The meeting was attended briefly by Mrs. Hillary Rodham Clinton, wife of the President of the United States of America. The round-table discussion was the first in a series of joint meetings through which the Prosecutor intends to assure the cohesive development of legal positions and operating procedures in her two Offices.

## D. Activities related to evidence collection

72. The collection of information and evidence to support the investigations has been an activity that has grown exponentially and outstripped the available resources needed to process the documentation. Early in its establishment, the Office of the Prosecutor established a database in order to be able to allow the investigators to search and retrieve information essential to their cases. The volume of information available to the International Tribunal for the Former Yugoslavia, however, proved to be too large to incorporate into the database

with the available staff. A backlog of hundreds of thousands of pages quickly grew. In 1997, through a voluntary contribution from the Government of the Netherlands, the backlog coding project began. The project is designed to eliminate the accumulated backlog within one year.

73. As the database in the Office of the Prosecutor has grown, it has also become a source of otherwise unattainable information for certain organizations, in addition to fulfilling its essential role in the organization of information for the Tribunal itself. In 1996, discussions took place between the Office of the Prosecutor and the International Committee of the Red Cross (ICRC) on the possibility of extracting information about missing persons in the former Yugoslavia from the database files. In June 1997, the Office of the Prosecutor and ICRC began to cooperate in a project to retrieve information about the identity of missing persons from the database. It is hoped that this project will help ICRC to provide information to families and friends about the fate of those missing in the former Yugoslavia.

74. In May 1997, the International Police Task Force reached an agreement with the Office of the Prosecutor to retrieve information from its database on candidates proposed to serve as officers of the new Bosnian police force.

### E. "Rules of the road"

75. It was agreed in Rome on 18 February 1996 by the parties to the Dayton Peace Agreement that persons other than those already indicted by the Tribunal may be arrested and detained for serious violations of international humanitarian law only pursuant to a previously issued order, warrant or indictment that has been reviewed and deemed consistent with international legal standards by the Tribunal. The work emanating from this agreement is referred to as the "rules of the road" project.

76. Although the Tribunal was not itself a party to the Rome Agreement, the Office of the Prosecutor has agreed to review cases submitted to it by the parties. The project depends upon voluntary contributions from States. The Office has received an estimated 400 cases, the majority from Bosnia and Herzegovina. During the reporting period, over 40 cases were reviewed by attorneys of the Office and recommendations made to the submitting State. In June 1997, the Coalition for International Justice (a non-governmental organization) made a contribution to assist the Office with its backlog of materials.

## IV. THE REGISTRY

77. The Registry of the Tribunal has many different functions. In addition to its court management functions, it manages a legal aid system of assigning defence counsel to indigent accused, supervises a detention unit and maintains diplomatic contacts with States and embassies. Operating under the supervision of the Registrar and the Deputy Registrar, the Registry has adopted innovative approaches to its diverse tasks. The increasing workload of the Tribunal in the

reporting period has demonstrated the need to fine-tune the procedures developed and adopted in the first two years of its existence.

## A. Judicial Department

### 1. Court management and support services

78. The Court Management and Support Services Unit is responsible for making administrative arrangements for courtroom hearings, including arranging for the distribution of documents, providing technical assistance and preparing minutes and records of Chambers' sittings, filing and distributing judgements, orders, requests, pleadings and other official documents of the Tribunal, managing exhibits submitted by the parties in trial, maintaining the Tribunal's archives and keeping custody of the Tribunal's stamps and seals.

79. During the year under review, the Court Management Unit has been occupied with hearings in several different cases. As in the previous year, the courtroom has been in use nearly every day with trial proceedings in the Tadić, Čelebići and Blaškić cases, preliminary motions in these and other cases, sentencing hearings in the Tadić and Erdemović cases and appeal hearings in the Erdemović case.

80. Since 23 June 1997, proceedings in the Čelebići and Blaškić cases have been running simultaneously. This means that, with only one courtroom available, each Trial Chamber will now alternate two weeks of trial hearings with two weeks off. In each two-week period, one day is made available for hearings in other cases.

81. To improve the effectiveness and efficiency of the Tribunal's court operations, instructions on the functioning of the Court Management and Support Services Unit have been drafted. These instructions implement the rules of the earlier adopted directive for the Unit and are intended to provide a complete guide to the practice of the Unit.

### 2. Defence counsel

82. One of the fundamental rights guaranteed to accused persons under article 21 of the statute is the right to be assisted by counsel of their own choice, or if they do not have sufficient means to pay for counsel, to have counsel assigned to them and the costs and expenses of such legal representation to be met by the Tribunal. The directive on the assignment of defence counsel sets out the conditions and procedure for the assignment of counsel to indigent suspects and accused.

83. As the judicial activities of the Tribunal have increased, so has the legal profession's interest therein. Over the last year the number of persons who have indicated their willingness to represent indigent accused persons and suspects has risen from 66 persons from 13 countries to 230 persons from 17 countries.

84. During the last 12 months, counsel assigned by the Tribunal were as follows: for Dusko Tadić, Professor Wladimiroff and Mr. Orie, with Mr. Kay and Ms. de Bertodano acting as defence counsel during the trial proceedings - at the defendant's request, Mr. Vujin (who previously represented Đorđe Đukić) and Mr. Kostić were assigned as counsel to the accused after the conclusion of the trial proceedings, with Mr. Livingston assisting; for Dražen Erdemović, Mr. Babić; for Zejnil Delalić, Ms. Rešidović and Professor O'Sullivan; for Mr. Mucić, Mr. Tapušković and Ms. Tapušković, who were replaced, at the defendant's request, by Mr. Olujić and Mr. Greaves, respectively; for Hazim Delić, Mr. Karabdić and Mr. Moran; for Ešad Landžo, Mr. Bracković, who was replaced, at the defendant's request, by Mr. Ackerman, and Ms. McMurrey; for Dragan Opacić, Ms. Isailović; for Slavko Dokmanović, provisionally Mr. Fila (who previously represented Đorđe Đukić and Goran Lajić); and for Milan Kovačević, Mr. Pantelić (who previously represented Aleksa Krsmanović and, privately, Radovan Karadžić in rule 61 proceedings and the Government of Republika Srpska in its visit to the Tribunal in August 1996).

85. Non-assigned (private) counsel were as follows: for Tihomir Blaškić, Mr. Hodak, who was replaced, at the defendant's request, by Mr. Nobilo and Mr. Hayman; and for Zlatko Aleksovski, Mr. Mikulicić.

86. Building on the experience it gained during 1995, the Defence Counsel Unit has continued to act as the channel of communication between defence counsel and the organs of the Tribunal. The Unit has also assisted defence counsel to ensure that they receive the cooperation and support to which they are entitled under the Rules of Procedure and Evidence and the directive. In addition, the Unit is responsible for updating the list of persons who have indicated their willingness to represent indigent accused and suspects.

87. Because of budgetary constraints, certain restrictions have been placed on the costs and expenses that are paid to assigned counsel. Limits are placed on the maximum number of hours assigned counsel may claim as remuneration and on the number of investigators and consultants assigned counsel may hire and the amount those persons may be paid.

88. Towards the end of 1996 the Registrar determined that a code of conduct should be drafted to govern the behaviour of defence counsel who appear before the Tribunal. Taking into account codes of professional behaviour from various countries, the Defence Counsel Unit sought to strike a balance between adversarial and inquisitorial legal systems. The underlying principles of the code are that while they appear before the Tribunal defence counsel must maintain high standards of professional conduct; they must act with competence, skill, care, honesty and loyalty; they must not reveal information that has been entrusted to them in confidence; and they must ensure that, in the representation of their client, no conflict of interest arises. The code of conduct was formally promulgated on 12 June 1997.

89. The seven-member Advisory Panel, which is the consultative body on defence counsel matters, consists of two members chosen by ballot from the list of persons who had indicated their willingness to represent indigent accused and suspects, two members proposed by the International Bar Association, two members proposed by the Union internationale des avocats and the President of the

Nederlandse Orde van Advokaten or his representative. Since the members of the Advisory Panel are only elected for a two-year term, the panel has recently been re-elected. The former members of the Advisory Panel provided the Registry with valuable advice on the amendments made to the directive in June 1996, the financial restrictions imposed on the costs and expenses paid to defence counsel and the formulation of the code of conduct.

### 3. Detention Unit

90. The following persons have been held in custody at the United Nations Detention Unit during the reporting period: Duško Tadić, Dražen Erdemović, Zejnil Delalić, Zdravko Mucić, Esad Landžo, Hazim Delić, Zlatko Aleksovski, Slavko Dokmanović and Milan Kovačević. Dragan Opačić was also held as a detained witness, but was transferred back to the transferring State, Bosnia and Herzegovina, on 12 June 1997. Tihomir Blaškić has also been under detention, subject, however, to modified conditions under the Rules of Procedure and Evidence of the Tribunal.

91. The number of guards on loan to the Detention Unit has been 17 during the reporting period. One guard donated by Denmark has joined the staff in the past year.

92. Owing to the long periods detainees spend in detention, the Unit has made an effort to provide activities for the detainees. Agreements have been concluded with the Netherlands Red Cross and the Free University of Amsterdam to provide visitors to the Detention Unit. These visits take place weekly and have been much appreciated by the detainees. A variety of facilities such as painting materials, a computer and language courses have also been made available to detainees. Most of the detainees have also been permitted contact with one another.

### 4. Victims and Witnesses Unit

93. The Victims and Witnesses Unit is a specialist unit within the Tribunal responsible for providing support and protection to witnesses who are testifying before the Tribunal. In addition, the Unit is responsible for witnesses' travel, accommodation and financial arrangements. The Unit now has a staff of five: a Coordinator, a Protection Officer, a Support Officer, a Field Officer and an administrative assistant.

94. In addition, during trials and other hearings, the Victims and Witnesses Unit provides a 24-hour, live-in support programme at the witnesses' place of accommodation. The live-in team consists of four witness assistants who speak Serbo-Croatian but are not themselves from areas involved in the conflict in the former Yugoslavia. The live-in team provides the first point of contact for any action required at the places of accommodation. The European Union (EU), through a grant to the Rehabilitation and Research Centre for Torture Victims in Denmark, supports this witness assistance programme.

95. The Unit has special arrangements with the Netherlands police for a rapid response to any security threat, including provision of a Netherlands liaison officer for the Tribunal to enable close cooperation in the event of action required to ensure the safety and security of witnesses.

96. During the reporting period, the Unit brought some 120 witnesses from approximately 20 different countries in Europe and the United States of America and Canada to The Hague to appear before the Tribunal in various hearings - the Tadić trial (65), the Erdemović sentencing (2), the Čelebići case (35), the Tadić sentencing (7) and the Blaškić trial (11).

97. In the reporting period, the Victims and Witnesses Unit further developed its programmes, criteria and guidelines. These include criteria for allowing witnesses to be accompanied by support persons when travelling to The Hague to testify. In addition, a guideline was developed for the compensation for lost earnings of witnesses who testify at the Tribunal. That compensation will be based on standard amounts relating to the minimum wages or the equivalent thereof.

98. In June 1997 the Victims and Witnesses Units of both the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda met for a workshop organized in cooperation with the Coordination of Women's Advocacy, a non-governmental organization based in Geneva. The Units of both Tribunals met for the first time to develop procedures for harmonizing their operations.

99. The experience of the Victims and Witnesses Unit is that it is difficult for witnesses to testify in court about the suffering they have undergone, but that many have experienced a sense of relief after testifying and have expressed their appreciation at having been able to do so.

## B. Administration

### 1. Budget and finance

100. In its resolution 50/212 C of 15 July 1996, the General Assembly decided to appropriate to the Tribunal the sum of $31.1 million gross ($27.8 million net) for the period from 1 April to 31 December 1996. This was in addition to the amount of $8.6 million gross ($7.6 million net) already appropriated for the period from 1 January to 31 March 1996. The total appropriation for 1996 therefore totalled $39.7 million gross ($35.4 million net). The Assembly also approved an increase in the authorized level of staff from 258 posts to 337 posts.

101. Expenditures for the year against the appropriation totalled $30.4 million net, resulting in a saving of $5 million, primarily through savings in personnel costs, as recruitment of personnel was delayed until later than anticipated.

102. In November 1996, the Secretary-General submitted a further report on the financing of the Tribunal (A/C.5/51/30), which contained his proposed requirements for 1997, which amounted to $53.5 million net. The Advisory

Committee on Administrative and Budgetary Questions noted that a revised report was due to be submitted by the Secretary-General upon conclusion of a report of the Office of Internal Oversight Services upon the proposed budget of the Tribunal. The detailed review of the financing of the Tribunal for 1997 was therefore deferred. On 18 December 1996, the General Assembly decided to appropriate to the Tribunal an amount of $21.1 million net for the period from 1 January to 30 June 1997 to allow the Tribunal to continue its activities.

103. On 13 June 1997, the General Assembly, having considered the report of the Fifth Committee (A/51/743/Add.1), decided to appropriate an amount of $27.4 million net for the Tribunal for the period from 1 July to 31 December 1997. Hence, a total amount of $48.5 million net was appropriated to the Tribunal for 1997.

## 2. Personnel

104. The Registrar has delegated authority in the appointment and administration of all staff up to the D-1 level. In 1996, two important elements of personnel management were realized: the implementation of the initial job classification exercise and the establishment of the Appointment and Promotion Board.

105. Vacancies were advertised through the regular United Nations channels and through letters to the embassies at The Hague. Over 3,500 applications were received and processed during the year, an increase from 2,500 last year, both in response to particular vacancies and general applications.

106. By 31 July 1997, the total number of staff had increased from 197 to 368 persons; 169 of these were international (Professional) staff and 199 were locally recruited staff. Fifty-one nationalities were represented among the staff (including stateless); the percentage of women was 39.5 in the Professional category and 41.5 for all staff.

107. In addition, as at 31 July 1997, a total of 52 persons were seconded by Governments and non-governmental organizations to serve as "experts-on-mission", including 22 legal assistants seconded by the International Commission of Jurists. The Tribunal also has an internship programme.

## 3. Translation

108. Continued growth marked the activities of the Conference and Language Services Section throughout the reporting period. Responsible for both interpretation and translation services for all the organs of the Tribunal, the Service includes 38 full-time translators and interpreters. Over the year, the Section received an ever-rising number of requests for translation, not only from and into Bosnian, Croatian and Serbian, English and French, but also from German and Dutch, of legal and military documents, statements, indictments, Trial and Appeals Chamber decisions, preliminary motions and transcripts. The volume of documents needing translation from and into Bosnian, Croatian and Serbian for courtroom use also rose in tandem. In addition, the Section called on 70 field interpreters for approximately 255 missions all over the world.

109. During 1996-1997, the Tadić, Blaškić, Erdemović and Čelebići cases, among others, were heard before the Trial Chambers. This meant that simultaneous interpretation from and into English, French and Bosnian, Croatian and Serbian was necessary almost continuously. The work in the courtroom required a minimum of six conference interpreters assigned to cover the three interpretation booths and the permanent services of court reporters for the Tribunal's two working languages, English and French.

## 4. General services

### (a) Building management

110. As specified in its lease agreement, on 1 January 1997 the Tribunal assumed responsibility for the entire building in which it is located, which it previously shared with the landlord, a Netherlands insurance company. Consequently, the Building Management Unit became responsible for the entire building's maintenance and operation - an increase in office space and court facilities from 7,200 square metres to 19,500 square metres. The Building Management Unit negotiated with the former landlord to purchase surplus furniture, equipment and maintenance supplies upon its departure. It is estimated that this acquisition saved the United Nations more than $200,000 and provided most of the necessary furniture for anticipated staff increases in 1997-1998.

111. Planning indicated the Tribunal would not require the entire office space coming under its responsibility and in the autumn of 1996 negotiations were concluded with the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons to lease 26.7 per cent of the building and surplus office furniture for a period of not less than one year.

### (b) Travel

112. The Travel Unit is responsible for arranging travel for staff members as well as for defence counsel, witnesses and court support staff. Special projects by the Office of the Prosecutor such as the exhumation and forensics programmes have placed additional responsibilities on the Travel Unit during the reporting period.

## 5. Electronic support services

113. Continuing from the foundations of systems installed in previous years, the Electronic Support Services and Communications Section has continued to provide user support and systems operations over the past year. In 1996, expanded operations in the area of the former Yugoslavia required additional support and infrastructure.

114. The Electronic Support Services and Communications Section has also conducted support of the nearly full-time courtroom hearings at the Tribunal. The built-in video system has proved valuable in the presentation of the large quantity of photographic and video evidence, and the in-house production of

broadcast-quality television signals has been well received by the press, bolstering media coverage and encouraging the use of footage in many documentaries.

115. The Section also fielded a mobile video-conference studio, installed in Banja Luka in October 1996, to allow the Trial Chamber to hear the live testimony of defence witnesses who would otherwise not have been able to travel to The Hague, and has expanded the electronic networks servicing the Tribunal. Plans for the coming year include expansion and upgrading of the networks to accommodate the hiring of new staff and the acquisition of new office space, as well as installation of a Tribunal-operated Internet World Wide Web service.

### 6. Security

116. The Security and Safety Unit has grown to a total of 53 officers formerly from military and civilian police forces of 18 different countries. The responsibilities for the security and safety of the Tribunal's premises, property and staff have expanded to include additional services of providing security support for locations in the former Yugoslavia such as Zagreb, Sarajevo and the witness video-conference studio in Banja Luka. A programme of fire and safety awareness and staff training has been introduced with the addition of the Fire and Safety Office.

### 7. Library and reference

117. The library of the Tribunal, operational since late 1995, serves as a documentation and research centre for the different organs of the Tribunal as well as counsel for the Defence. It provides users with information both from its own collection and from material obtained from collections outside the Tribunal, in particular other international law libraries in The Hague.

118. In the course of 1996 the library amassed a basic collection of the main sources of international law, in particular international humanitarian law, and national law, as well as of general reference works.

## C. Press and Information Office

119. The Press and Information Office comprises two sections: the Press Section, with two staff members complemented by two legal assistants, and the Public Information Section, with two staff members. The Chief of the Press and Information Office is responsible for coordinating and organizing the two sections.

120. From the perspective of the Press and Information Office, 1996-1997 saw the further establishment of the Tribunal, in the media and among specialists, as an important legal institution. Media coverage changed in focus, however, at the same time that public interest underwent a significant evolution.

## 1. Media coverage

121. Paradoxically, the fact that hearings for the Tadić, Erdemović, Čelebići and Blaškić cases were held almost every day has not meant that the media have paid proportionately greater attention to the work of the Tribunal. In fact, media coverage has seemed somewhat less sustained than during the pre-trial phases of these cases. The paradox may, however, be superficial. Media coverage appears, in fact, to have changed its focus, in that the legal component of the Tribunal's image has been consolidated while its political and institutional component has receded from the public eye.

122. The evolution of the Tribunal's legal activity is demonstrated by the Press and Information Office having issued 133 press releases between 1 August 1996 and 31 July 1997. These press releases, which announce the holding of hearings, summarize the positions of the parties on various points of law and report the decisions of the Trial Chambers, make it possible for the press to follow every step of the proceedings.

123. Nevertheless, media coverage in the reporting period has been basically unsustained and intermittent, with press attendance at the proceedings sporadic. For example, only approximately a dozen media representatives covered the end of the Tadić trial. Although the public gallery was filled with spectators at the opening of the Čelebeći trial, the number of reporters attending the following hearings gradually dwindled, which was also the case for the Blaškić trial. The explanation for the diminished interest in the hearings on the merits of the cases may be found in the measured pace, length and technical sophistication of the proceedings and in the fact that journalists visiting the Tribunal are typically not columnists who write on legal affairs and are accordingly not able to cover a whole trial from its opening to its conclusion.

124. With respect to this sporadic coverage, however, it should be pointed out that press presence was enormous during the Erdemović hearings in November 1996, the opening of the Čelebići and Blaškić cases in March and June 1997, and the verdict and pre-sentencing hearings in the Tadić case in May and July 1997.

125. A number of internal and external factors have shaped the evolution of the Tribunal in the media. The internal factors have been the publication of several indictments and the holding of a number of rule 61 hearings in 1995-1996. The external factors have been such political and military developments as the Dayton Peace Agreement and IFOR deployment, which took place at the end of 1995. However, since no public indictment has been issued since the summer of 1996 and no rule 61 hearings have been held, the Tribunal has not enjoyed the sort of media attention which those two forms of judicial activity had hitherto generated. At the same time, the situation on the ground in the former Yugoslavia has gradually lost its lead position in international news and received correspondingly sporadic attention from journalists.

126. Nonetheless, the Tribunal's activities have remained firmly on the media agenda: the occasional reports devoted to IFOR/SFOR policy, the failure of the parties to implement the Dayton Peace Agreement or the international community's attitude to the Tribunal have systematically alluded to, or even dealt

exclusively with, the problem of prosecuting and punishing war crimes and crimes against humanity.

## 2. Public interest in the Tribunal

127. The Public Information Section has continued in the reporting period to intensify its efforts to respond to the growing interest in diplomatic, academic and legal circles and to promote general awareness of the Tribunal's work.

### (a) Appreciable development of public interest

128. The list of individuals, organizations and institutions interested in the working and development of the Tribunal now includes 1,000 names as compared with 700 in the summer of 1996. Among these are 20 United Nations information centres (as opposed to 18 in the summer of 1996), 97 diplomatic representatives (for the most part those located in the Netherlands and Belgium, but also in the successor States to the former Yugoslavia - 86 in 1996) and 853 universities, governmental and non-governmental organizations, ministries, legal practitioners and individuals (as compared with only 560 last year). One quarter of these contacts regularly present written requests for documents, information or additional information. Requests received by telephone were so numerous that it proved impossible to number them.

### (b) Actively fostering knowledge about the Tribunal

129. In addition to the fact that the services established last year, and referred to in the Tribunal's third annual report (A/51/292-S/1996/665, paras. 165 (a) and (b)), continued to operate, two tools that are particularly effective for all sorts of activity designed to foster knowledge of the activities and work of the Tribunal expanded rapidly in 1996-1997.

130. The first is the Bulletin: eight additional issues of the Bulletin, prepared regularly by the Press and Information Office, have been published in the past year. This bilingual publication (English and French) now enjoys a readership of over 1,200. The Bulletin has expanded in order better to cover the rapid development of the Tribunal's case law for an increasingly specialized readership, while becoming more judicial in content than strictly institutional or practical.

131. The second information and awareness-raising tool introduced over the course of the past year is the Internet site (http://www.un.org/icty), which the Tribunal inaugurated in May 1997 on the United Nations server centre. Bilingual, like the Bulletin, the site was designed by the Press and Information Office and is being updated constantly. The site eliminates the distance between the Tribunal and its observers and facilitates rapid access to the latest news from The Hague and to archival documents. The expectations for the service have not proved ill-founded: on average, there were 19,107 weekly consultations ("hits") at the Tribunal's site during the course of the first four months.

## Part two

## ACTIONS OF STATES

### V. IMPLEMENTATION OF THE DAYTON PEACE AGREEMENT

132. The Dayton Peace Agreement, signed in Paris on 14 December 1995, obliges the parties thereto - the Federal Republic of Yugoslavia, the Republic of Bosnia and Herzegovina, the Republic of Croatia, the Federation of Bosnia and Herzegovina (as distinct from the Republic of Bosnia and Herzegovina, of which it is an entity) and Republika Srpska - to cooperate with the Tribunal, notably by arresting indictees and transferring them to the Tribunal (e.g. article X of annex 1-A, article II (8) of annex 4 and article XIII (4) of annex 6).

133. Since the previous report, there has been very little progress with regard to the implementation of the Dayton Peace Agreement by the parties as far as the Tribunal is concerned. Three caveats should, however, be made to that statement. Firstly, in the reporting period the Republic of Croatia arrested Zlatko Aleksovski, named in the Lašva river valley indictment, and delivered him to the Tribunal. Aleksovski was arrested on 8 June 1996, but was not delivered to the Tribunal until April 1997 and made his initial appearance before a Trial Chamber on 29 April 1997. Secondly, on 27 June 1997, Slavko Dokmanović was arrested by the Prosecutor, with the cooperation of UNTAES. The arrest marks the first time that the Prosecutor has directly intervened to arrest an indictee and the first time that peacekeepers have worked so closely with the Tribunal. It is to be noted, however, that UNTAES is a United Nations administration, which is independent from the Dayton Peace Agreement, and independent from the NATO forces stationed in Bosnia and Herzegovina.[4] The third exception is, therefore, all the more significant: on 10 July 1997, Milan Kovačević was arrested by SFOR, the first such arrest by NATO-led forces stationed in Bosnia and Herzegovina.

134. Mention should, however, be made of the fact that, contrary to the terms of the Dayton Peace Agreement, a number of persons indicted by the Tribunal appear still to hold official positions. In particular, Zeljko Meakić (who has been indicted for genocide), Mladen Radić, Nedeljko Timarać and Miloslav Kvocka are all reported still to be working as police officers in the Prijedor area of Republika Srpska. In November 1996, local police in Prijedor confirmed that two indictees, Pedrag and Nenad Banović, were working as police reservists, while two others, Radomir Kovać and Dragan Zelenović, were working at a police station in Foča.

135. In August 1996, Radovan Stanković, who has been indicted by the Tribunal for his alleged role in perpetrating gang rape in Foča, and who is reported still to be working as a police officer in the locality, was nearly arrested by police forces of the Federation of Bosnia and Herzegovina. He later entered offices of the International Police Task Force and filed a report of harassment against the Federation police, which the Task Force noted and filed. A Task Force spokesman stated that the Force was neither under a duty to arrest Stanković nor to inform IFOR that he was present at their offices. Because of the encounter and the difficulties experienced with respect to the Republika Srpska police force, the International Police Task Force has stated that

procedures to ensure that United Nations personnel do not come into contact with indicted war crimes suspects have been tightened.[5]

136. With the exceptions noted above, the Dayton Peace Agreement's provisions concerning the arrest and transfer of indictees to the Tribunal have, therefore, not been complied with during the reporting period.

## VI. CONTACTS OF THE TRIBUNAL WITH GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

137. The Tribunal must rely upon the cooperation of States and other entities for the arrest and delivery of indictees, as well as for other forms of assistance. Accordingly, unlike national criminal courts and inter-State international tribunals, it is necessary for the Tribunal to maintain contacts with Governments and international organizations with a view to obtaining their assistance and cooperation.

138. The head of the Tribunal is its President. In the past year, the President of the Tribunal, Judge Antonio Cassese, has hosted a number of visits to the Tribunal.

139. On 31 October 1996, Mr. Klaus Kinkel, Foreign Minister of Germany, became the first Foreign Minister to visit the Tribunal. He met and had discussions with the President of the Tribunal, the Prosecutor and the Registrar. In a press conference Mr. Kinkel gave at the end of his visit, he reiterated the unfailing and unflagging support of Germany for the Tribunal. He laid emphasis on the absolute need for States of the former Yugoslavia, notably the Federal Republic of Yugoslavia and Croatia, to cooperate fully with the Tribunal, in particular by arresting indictees, singling out for mention Radovan Karadžić, Ratko Mladić, Dario Kordić and Ivica Rajić, as well as the three military officers from Belgrade (Mrkšić, Radić and Šljivančanin) accused of exceptionally serious crimes committed at Vukovar in 1991. He emphasized that international arrest warrants were outstanding for all of the above-mentioned indictees, with the exception of Dario Kordić.

140. On 27 January 1997, the Minister for Foreign Affairs of Australia, Mr. Alexander Downer, and other senior Australian officials paid an official visit to the Tribunal, meeting the President and other Judges of the Tribunal, the Prosecutor, the Deputy Prosecutor and the Registrar. The President expressed the Tribunal's gratitude to the Foreign Minister for the strong support the Government of Australia had lent to the Tribunal from its outset. Australia has cooperated fully with the Tribunal and was among the first countries to pass implementing legislation. In addition, the Australian authorities have always cooperated with the Prosecutor to the fullest extent.

141. On 6 February 1997, the Minister of Justice of Italy, Professor Giovanni Flick, the Ambassador of Italy to the Netherlands and senior officials of the Ministry of Justice paid an official visit to the Tribunal in order to sign an agreement with the United Nations on the enforcement of sentences of the International Tribunal. The Minister met the President, as well as other Judges

of the Tribunal, the Deputy Prosecutor, the Registrar and other Tribunal officials. The Minister also visited the courtroom of the Tribunal.

142. On 3 March 1997, the United Nations Secretary-General, Mr. Kofi Annan, made an official visit to the Tribunal. During his two-hour stay at the Tribunal's seat, Mr. Annan held a joint working meeting with the Judges, the Prosecutor and the Registrar before meeting and addressing staff members. In his speech to the Secretary-General, President Cassese requested him to consider drawing the attention of the Security Council to the grave dilemma of States' non-cooperation as soon as he deemed it appropriate.

143. The first Head of State to visit the Tribunal was the President of Ireland, Mrs. Mary Robinson, on 19 March 1997. She met the President and Judges of the Tribunal, and the Prosecutor, as well as Irish members of staff.

144. On 7 May 1997, the Minister for Foreign Affairs of Finland, Mrs. Tarja Halonen, paid an official visit to the Tribunal. She was accompanied by the Ambassador of Finland to the Netherlands and by senior officials of the Ministry of Foreign Affairs. The Minister met the President, the Prosecutor and the Registrar. She expressed the Government of Finland's support for the Tribunal's work and noted the difficulties it faced in carrying out its mandate. During her visit, an agreement with the United Nations on the enforcement of sentences of the International Tribunal was signed.

145. The United States Secretary of State, Mrs. Madeleine Albright, visited the Tribunal on 28 May 1997, where she had a meeting with the Prosecutor. At a press conference held at the Tribunal, she affirmed that there was no statute of limitations on the crimes that were committed in Bosnia and Rwanda, and no statute of limitations on America's support for justice.

146. President Cassese also met the Foreign Minister of Italy, Mr. Lamberto Dini, on the occasion of the General Affairs Council of EU in Brussels on 20 January 1997, and the Minister of State at the British Foreign Office, Mr. Tony Lloyd, in London on 10 June 1997. Upon invitation, he addressed the Civil Committee of the North Atlantic Parliamentary Assembly on 29 May 1997 in Luxembourg and the Foreign Affairs Committee of the Italian Chamber of Deputies on 1 July 1997.

147. In a letter dated 24 June 1997, Mr. Jacques Poos, Minister of Foreign Affairs of Luxembourg, wrote to the President of the Tribunal to assure him that during Luxembourg's Presidency of EU, it would attach particular importance to the issue of cooperation with the Tribunal, treating it as a basic condition for any progress in the development of bilateral relations in the areas of commercial exchanges, financial assistance and economic cooperation as well as contractual relations between EU and the countries of the region. President Cassese welcomed the statements of Foreign Minister Poos as extremely significant and personally thanked him for the clear and unmistakable signs of support.

## VII. ENACTMENT OF IMPLEMENTING LEGISLATION

148. The Tribunal relies heavily not just on the cooperation of States of the former Yugoslavia but on all States for its daily operations and it proceeds under the assumption that States will provide their full and unreserved support. Given this great reliance on national action, the adoption by States of the legislative, administrative and judicial measures necessary for the expeditious implementation of the Tribunal's orders is of crucial importance. Such measures are mandatory under Security Council resolution 827 (1993), which requires all States to cooperate fully with the Tribunal and its organs and stipulates that all States shall take any measures necessary under their domestic law to implement the provisions of the Tribunal's Statute and comply with requests for assistance or orders issued by a Trial Chamber (para. 4). The statute establishes in article 29 the principle of cooperation between States and the Tribunal in the investigation and prosecution of persons accused of committing serious violations of international humanitarian law. Rule 58 restates this principle and confirms that the obligations on States stemming from the statute shall prevail over any legal impediment to the surrender or transfer of the accused to the Tribunal.

149. During the reporting period, no further States have enacted implementing legislation enabling them to cooperate with the Tribunal. Thus, as reported last year, 20 States have enacted implementing legislation: Austria, Australia, Belgium, Bosnia and Herzegovina, Croatia, Denmark, Finland, France, Germany, Hungary, Iceland, Italy, Netherlands, New Zealand, Norway, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland and United States of America. The Republic of Korea, the Russian Federation, Singapore and Venezuela have indicated that they do not require implementing legislation to carry out their responsibilities. In addition, the following States have indicated their intention to adopt implementing legislation in the near future: Canada, Luxembourg, Poland, Romania, Slovakia, Slovenia, Sri Lanka and Turkey.

150. Unfortunately, other States have continued to refuse cooperation on the grounds of their national legislation and/or failed to enact such legislation as would make cooperation a possibility. A notable example remains the Federal Republic of Yugoslavia.

## VIII. ENFORCEMENT OF SENTENCES

151. Article 27 of the Tribunal's statute prescribes that sentences of imprisonment imposed by the Tribunal on a convicted person be served in a State designated by the Tribunal from a list of States that have indicated to the Security Council their willingness to accept such persons.

152. A total of 10 States have indicated their willingness to enforce sentences of the Tribunal, either to the Security Council, the Secretary-General or the President of the Tribunal. These are Bosnia and Herzegovina, Croatia, Denmark, Finland, Germany, the Islamic Republic of Iran, Italy, Norway, Pakistan and Sweden. A number of those States have agreed to accept prisoners subject to certain conditions (e.g. only if their own nationals or residents are concerned or only a limited number of prisoners).

153. The Registry has drafted a model agreement on the enforcement of sentences, which sets out the terms and conditions that should govern the acceptance of convicted persons by States. The model agreement provides that the Registrar, in consultation with the President, will request a particular State to accept a convicted person to serve his sentence in that State's prisons. Under the agreement, the State will not be bound by such a request but will be in a position to make a case-by-case assessment. Once the prisoner has been accepted and transferred, the enforcing State will be bound by the duration of the sentence imposed by the Tribunal. Subject to the supervision of the Tribunal, the conditions of imprisonment will be in accordance with domestic law.

154. Two States, Italy and Finland, have already signed the agreement, on 6 February 1997 and 7 May 1997, respectively. Negotiations with two other States are also in an advanced stage and may lead to the conclusion of similar arrangements in the near future.

155. Ten States had previously indicated that they were not in a position to accept prisoners: Bahamas, Belarus, Belize, Burkina Faso, Ecuador, France, Liechtenstein, Malaysia, Poland and Slovenia.

## IX. VOLUNTARY CONTRIBUTIONS

### A. States

#### 1. Cooperation of the host State

156. Throughout the past year, the authorities of the Netherlands have continued to provide their active support to the work of the Tribunal. Beside the numerous forms of assistance rendered pursuant to the provisions of the Headquarters Agreement (such as the external protection of the premises of the Tribunal and the provision of protection and safety to Judges, senior officials, detainees and witnesses), the Government of the Netherlands has made substantial voluntary contributions to key projects of the Tribunal. The Minister for Development Cooperation, the Minister for Foreign Affairs, the Minister for Justice as well as the Minister for the Interior have been particularly supportive.

157. Since December 1994, the host country has contributed the services of four gratis expert personnel, consisting in the past year of three investigators and one legal adviser/prosecutor. During intermittent periods of vacancies, released funds have been used to provide other short-term expert assistance, such as special police teams for taking video and photographic evidence of exhumations and services for establishing a fingerprint and photo database of detainees.

158. As noted above, an agreement was concluded in December 1996 with the Minister for Development Cooperation concerning a large cash contribution to fund activities related to clearing a backlog in data entries at the Office of the Prosecutor. The donation is to be spread out over a number of instalments during 1997 and 1998, the first of which has been received. The Government of the Netherlands was also quick to react to a request made by the Prosecutor for

a cash donation to fund investigative travel at a time when available resources for such activities were almost depleted at the end of 1996. Moreover, the Tribunal has received a sizeable donation from the host country for the purchase of an essential component of its telephone infrastructure, which will enhance its capacity for both internal and external communications.

159. The host country has further cooperated with the Tribunal under an agreement concluded in June 1996 concerning special conditions of detention for General Tihomir Blaškić, who has been in the custody of the Tribunal since 1 April 1996 and whose trial began on 23 June 1997 (see chap. II above). This agreement was unfortunately terminated on 16 July 1997 owing to circumstances beyond the control of either the Tribunal or the host country.

### 2. Gratis personnel provided by Governments or organizations

160. Throughout the reporting period, the Tribunal has continued to benefit from the services of gratis personnel, that is, personnel provided at no cost to the United Nations by donor Governments or non-governmental organizations. Gratis personnel assigned to the Tribunal generally provide expertise in criminal investigation and prosecution, or in legal research in international law and criminal law - non-traditional fields of work for which human resources are not readily available within the United Nations system.

161. At the time of reporting, a total of 52 gratis personnel were assigned to the Tribunal, contributed by a total of 10 Governments (Belgium, Denmark, Finland, Italy, Netherlands, Norway, Sweden, Switzerland, United Kingdom and United States) and three non-governmental organizations (the European Action Council for Peace in the Balkans, the International Commission of Jurists and the Open Society Institute).

### 3. Monetary contributions and contributions in kind

162. In its resolution 47/235 of 14 September 1993, the General Assembly invited Member States and other interested parties to make voluntary contributions to the Tribunal in cash and in the form of services and supplies acceptable to the Secretary-General.

163. As at 15 July 1997, the Voluntary Fund had received approximately $8.6 million in contributions to the Tribunal's activities:

| Contributing State | Contribution (United States dollars) |
|---|---|
| Austria | 100 000 |
| Cambodia | 5 000 |
| Canada | 706 296 |
| Chile | 5 000 |
| Denmark | 183 368 |
| Hungary | 2 000 |
| Ireland | 121 767 |
| Israel | 7 500 |
| Italy | 1 898 049 |
| Liechtenstein | 4 985 |
| Malaysia | 2 250 000 |
| Malta | 1 500 |
| Namibia | 500 |
| Netherlands | 1 286 029 |
| New Zealand | 14 660 |
| Norway | 50 000 |
| Pakistan | 1 000 000 |
| Slovenia | 10 000 |
| Spain | 13 725 |
| Sweden | 31 734 |
| Switzerland | 193 940 |
| United States of America | 700 000 |

164. In addition, during the reporting period, a number of Member States, organizations and companies made additional contributions of equipment to the Tribunal. The Government of the United Kingdom contributed three 4x4 vehicles to the Tribunal to be used for operational requirements in the field, such as investigations and liaison with victims and witnesses (approximate value $67,600). A further six 4x4 vehicles were donated by the Government of France ($153,700). Five of the vehicles were delivered to the former Yugoslavia for use by Tribunal personnel operating in Croatia, Bosnia and Herzegovina and the Federal Republic of Yugoslavia. The remaining vehicle was delivered to The Hague and is used primarily by the Victims and Witnesses Unit to meet their witness transportation requirements.

165. The Government of France also donated video-delay equipment to the Tribunal, valued at $182,600. The provision of this equipment allows the Tribunal to broadcast trials with a limited time delay so as to protect certain witnesses and to allow the Court to consider requests for the redaction of testimony. Other contributions include the provision of court reporting software (valued at $4,000) by Discovery Products; two video-conference units from Time-Warner ($24,300) and 12 months' subscription to Lexis-Nexis donated by the Open Society Institute ($100,000).

166. On 17 July 1997, the Foreign Secretary of the United Kingdom, Mr. Robin Cook, made an outstanding offer to finance the construction of a second, interim courtroom for the Tribunal ($500,000). President Cassese hailed the announcement as an outstandingly generous gift.

## B. The European Union

167. EU has continued to make an invaluable contribution to the work of the Tribunal by providing financial resources for several projects of non-governmental organizations that assist the Tribunal. These projects include the donation, through the International Commission of Jurists, of 22 legal assistants (up from 15 last year) to the Registry and Judges' Chambers for research and legal support, which has proved of crucial value to the substantive work of the Tribunal. The Tribunal enormously appreciates this vital project and recognizes the great efforts that have been expended by those responsible at EU in ensuring its continuation over the past two and a half years.

168. Another significant contribution of EU involves the donation of funds, through the offices of the Rehabilitation and Research Centre for Torture Victims in Denmark, to the Victims and Witnesses Unit. Those funds have been used to provide a 24-hour-a-day, live-in witness assistant programme. Funds have also been applied towards payment of a specialist trauma consultant.

169. A third very important project sponsored by the Union involves a substantial contribution to the Tribunal's library. This project is in the process of being finalized.

170. The Tribunal is grateful to EU, and more particularly the European Commission, as well as the European Parliament, which took the initiative of listing the Tribunal's activities among its budgetary priorities. It thus provided the basis for the support and assistance given consistently and unfailingly by the Union to the Tribunal.

# Part three

# CONCLUSION

## X. CONCLUSION

## A. The Tribunal four years on

171. As the Judges of the Tribunal reach the end of their first term and the Tribunal completes its fourth year of existence, it is appropriate to take stock of what has been done so far, to reflect on what has been achieved and to identify the dangers and pitfalls that lie ahead.

172. Four years ago, when the Security Council established the Tribunal on 25 May 1993, the Tribunal existed only on paper. When the Judges took office on 17 November that year, they were sworn in at the Peace Palace in The Hague - the Tribunal had no premises of its own, much less a courtroom, and no staff beyond the Judges, one or two legal officers temporarily made available by United Nations Headquarters and four secretaries with short-term contracts. The functions of the Prosecutor lay unperformed until the Deputy Prosecutor, Mr. Graham Blewitt, commenced his duties on 21 February 1994.

173. Nearly four years later, the Tribunal is a vibrant, fully functioning judicial body. In addition to the 11 Judges, there are 362 staff members, 52 secondees - including 22 legal assistants - and a number of interns working in the Aegon Building, which serves as the Tribunal's premises. The Tribunal is endowed with the basic office equipment necessary to perform its functions and has a state-of-the-art courtroom. Eighteen public indictments have been issued by the Prosecutor and confirmed by the Judges, 11 indictees have been arrested and brought to The Hague for trial, one trial has been held, with the accused being found guilty on certain charges and acquitted of others and sentenced to imprisonment, and one sentencing procedure has been completed, while two more trials are under way, a third is to commence later in 1997 and two others to start in 1998. In addition, a great many interlocutory and pre-trial hearings have been held, including rule 61 proceedings in five cases. The Appeals Chamber has also been busy with a number of interlocutory appeals and one final appeal with a second pending.

174. In all, this is a remarkable achievement, the credit for which belongs to the great many people who have worked with enthusiasm and dedication in the cause of justice. A formidable infrastructure has been built - physical, in terms of offices and courtroom, human, in terms of staff, and normative, in terms of the very many texts and directives that have been adopted for the Tribunal's task: the Rules of Procedure and Evidence, the Rules of Detention and related Regulations, the directive on the assignment of defence counsel, the directive and instructions on the Registry, the code of conduct for defence counsel, the manual for practitioners and other texts.

## B. The need for international justice

175. Despite these accomplishments, the Tribunal remains a partial failure - through no fault of its own - because the vast majority of indictees continue to remain free, seemingly enjoying absolute immunity. This is a cause of growing dissatisfaction both in the former Yugoslavia and abroad. Reports of increasing embitterment among the people of the former Yugoslavia are rife, a bitterness that stems from the belief that a Tribunal has been created for the very purpose of rendering justice but has been left partially ineffective by the failure of States to make arrests. Increasingly, it seems, calls for revenge are being heard. The Tribunal was established precisely to pre-empt such calls for revenge and to ward off 'self-help' solutions.

176. The belief that lasting peace can be better secured through justice than through revenge or forgetting was recognized by the Security Council when it created the Tribunal. It established this judicial organ because the atrocities being committed in the former Yugoslavia constituted a threat to international peace and security and in the conviction that the Tribunal's establishment would enable an end to be put to such crimes and would contribute to the restoration and maintenance of peace (resolution 827 (1993)). The Tribunal cannot perform its deterrent function, however, unless it holds trials of those responsible for massacres and genocide.

177. Revenge is the last resort of persons who are denied due process. As the history of past genocides illustrates, when there is no justice in response to

the extermination of a people, the result is that victims are led to take the law into their own hands, both to exact retribution and to draw attention to the denied historical fact.[6]

178. Besides leading to revenge, impunity can have yet more lethal results. Lack of international response to genocide may embolden others to emulate the crime.[7] Permitting criminals to get away with committing crimes against humanity and war crimes in the former Yugoslavia is equally perilous. The international community should be aware of that fact.

179. Together with the need for justice, one should consider the effect of the continued presence of indictees in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia. Many such indictees apparently continue to dominate and uphold nationalism and ethnic division; to prevent the formation of a pluralistic and multi-confessional society based on respect for minorities and the absence of discrimination; to prevent the gradual demise of ethnic and religious hatred; and to prevent the return of refugees. The return of refugees, it seems, is hampered not only by economic and political factors but also by the presence, in some areas of Bosnia and Herzegovina, of indictees who still hold positions of power, as police officers, for example, because this creates a general atmosphere of lawlessness and impunity, and perpetuates the mentality of conflict and division, thereby discouraging refugees from returning.

180. In short, as the Security Council has recognized, leaving indictees at large precludes the establishment of the rule of law and democracy in the former Yugoslavia, and hence obstructs the restoration of peace.

### C. The major stumbling block to the success of the Tribunal

181. The major stumbling block to the success of the Tribunal lies in the fact that the Tribunal is not the forum delicti commissi and hence has limited police powers. As the Supreme Court of Israel pointed out in the Eichmann case, normally, the great majority of the witnesses and the greater part of the evidence are concentrated in the State where the crime was perpetrated and this is therefore the most convenient place (forum conveniens) for the conduct of the trial.[8]

182. By contrast, the Tribunal must perforce turn to States for the execution of its orders and warrants. If States are ready and willing to cooperate, the Tribunal is in a position to fulfil its mission. If States instead refuse to implement those orders or to execute those warrants, the Tribunal will turn out to be utterly impotent. Thus if greater respect is accorded to the authority of States than to the need to deter gross abuses of human rights, this will place severe limitations on what the Tribunal can achieve.

## D. Lack of cooperation by the States and entities of the former Yugoslavia

183. Sadly, the Tribunal has been obstructed in the past year by the refusal of certain States and entities of the former Yugoslavia to cooperate, namely, the Federal Republic of Yugoslavia, Republika Srpska, the Federation of Bosnia and Herzegovina and, to a lesser degree, Croatia. When considering this cooperation, or non-cooperation, a sharp distinction must be drawn between those States which recognize their duty to cooperate with the Tribunal, which have enacted legislation enabling them to cooperate with the Tribunal and which have arrested and transferred indictees to the Tribunal, on the one hand, and those which have done none of these things, on the other. Two States in the former Yugoslavia fall into the first category - Croatia and Bosnia and Herzegovina. Both Zagreb and the Sarajevo authorities have enacted implementing legislation enabling them to cooperate with the Tribunal and they have in fact both cooperated with the Tribunal by arresting indictees and delivering them - Zlatko Aleksovski by Croatia, and Hazim Delić and Esad Landžo by Bosnia and Herzegovina.

184. On the other hand, there are the two entities of Bosnia and Herzegovina - the Federation of Bosnia and Herzegovina and Republika Srpska - and the Federal Republic of Yugoslavia that have done little or nothing to cooperate with the Tribunal - they have neither enacted legislation nor arrested any indictees. Indeed Republika Srpska and the Federal Republic of Yugoslavia do not admit their duty to arrest and deliver accused persons to The Hague. They flatly deny all cooperation in delivering indictees.

185. In this connection, mention must be made of a letter and memorandum dated 2 January 1997 sent to the Secretary-General and all members of the Security Council by the President of Republika Srpska, Mrs. Biljana Plavšić. In her memorandum, Mrs. Plavšić stated:

> "The present position of Republika Srpska is that we are unwilling to hand over Dr. Karadžić and General Mladić for trial in The Hague as we believe that any such trial now falls outside the scope of the Tribunal's constitutional framework."

186. Mrs. Plavšić recently repeated this questionable proposition at the Ministerial Meeting of the Steering Board of the Peace Implementation Council at Sintra at the end of May 1997, saying that the Bosnian Serb constitution forbade the "extradition" of Serb citizens. The fallacy of referring to "extradition" and of invoking provisions of national law to contest obligations under international law has already been exposed on countless occasions and it is unnecessary to do so again here. Suffice it to say that the factual premise is moreover false - the constitution to which Bosnian Serbs, as well as Bosniacs and Bosnian Croats, are subject is the constitution adopted under the Dayton Peace Agreement, which, far from prohibiting the transfer of accused persons to the Tribunal, positively mandates it (see art. II (8) thereof).

187. In other words, Republika Srpska is clearly and blatantly refusing to meet the obligations that it undertook when it signed the Dayton Peace Agreement, by which it solemnly undertook to cooperate with the Tribunal and, in particular,

to comply with orders issued pursuant to article 29 of the statute of the Tribunal (art. II (8) of annex 4 (Constitution of Bosnia and Herzegovina)), that is, orders for the arrest or detention of persons (art. 29 (2) (c) of the statute of the Tribunal). Republika Srpska's obligations under the Dayton Peace Agreement were also guaranteed by the Federal Republic of Yugoslavia,[9] and witnessed by EU, France, Germany, the Russian Federation, the United Kingdom and the United States, which must surely be seriously concerned that Republika Srpska is openly flouting those same obligations. Republika Srpska has more than 40 indictees on its territory but it has consistently refused to arrest a single one.

188. The Federal Republic of Yugoslavia, for its part, is both failing to ensure Republika Srpska's compliance with the Dayton Peace Agreement, as it undertook and is obliged to do, and has failed to pass implementing legislation to enable it to cooperate with the Tribunal. It has further indicated that it has no intention of enacting such legislation in the future. It has visibly failed to arrest the three senior army officers on its territory - Mrkšić, Radić and Šljivančanin - who were all indicted in November 1995 by the Tribunal for their alleged roles in the destruction of Vukovar and the murder of 261 unarmed men after its fall, and in respect of whom international arrest warrants have been issued and sent to all States. The Serbian authorities have also allowed Bosnian Serb indictees such as Ratko Mladić, in respect of whom there is also an international warrant for his arrest on charges of genocide, to roam freely on their territory without fear of apprehension.

189. Indeed, like Republika Srpska, the Federal Republic of Yugoslavia is also explicitly refusing to "extradite" persons indicted by the Tribunal from its territory to The Hague, claiming that such "extradition" is against the constitution of the Federal Republic and that war crimes suspects would be tried in their territory, rather than being surrendered to The Hague. Again, it needs no argument to point out that the invocation by the Federal Republic of its constitution is no answer for its failure to meet its international obligations, including the treaty obligations it solemnly undertook before the world community at Dayton.

190. Regarding cooperation with the Tribunal by international organizations, while the Implementation Force established under the Dayton Peace Agreement - IFOR/SFOR - has been vital in ensuring the security of investigation teams, until very recently IFOR/SFOR has refrained from apprehending, or indeed encountering, indictees, stating that it did not intend to send out "posses" to arrest indictees but would only arrest them if they came across them.[10] This approach has recently changed dramatically with the arrest by SFOR, on 10 July 1997, of Slavko Dokmanović, indicted on charges of complicity in genocide for crimes committed in the Prijedor area. This arrest by SFOR is a most welcome development, which the Tribunal heartily applauds and trusts will continue.

## E. Final remarks

191. In his seminal works, If This is a Man and The Drowned and the Saved, Primo Levi spoke of the nightmares he had when a concentration camp inmate at

Auschwitz. His worst nightmare was of being free of the camp, among his loved ones, and telling them of the horrors he had suffered, but finding that they did not listen or were indifferent or disbelieving:[11]

> "Many survivors [of the concentration camps] remember that the SS militiamen cynically enjoyed admonishing the prisoners: '... even if some proof should remain and some of you survive, people will say that the events you describe are too monstrous to be believed ... .'
>
> "Strangely enough, this same thought ('even if we were to tell it, we would not be believed') arose in the form of nocturnal dreams produced by the prisoners' despair. Almost all the survivors ... remember a dream which frequently recurred during the nights of imprisonment, varied in its detail but uniform in its substance: they had returned home and with passion and relief were describing their past sufferings, addressing themselves to a loved person, and were not believed, indeed were not even listened to. In the most typical (and most cruel) form, the interlocutor turned and left in silence. ... Both parties, victims and oppressors, had a keen awareness of the enormity and therefore the non-credibility of what took place in the Lagers: and ... not only in the Lagers, but in the ghettos, the rear areas of the Eastern front, the police stations, and the asylums for the mentally handicapped."

192. The Tribunal's mission is to hear and record for posterity the stories of those who have suffered in the camps and killing fields of the former Yugoslavia and to dispense justice on that account in the name of the international community. It is worth noting in this context that witnesses who have come to The Hague have commented afterwards that the opportunity to testify before a duly constituted court has brought them great relief. Justice's cathartic effects may therefore promise hope for recovery and reconciliation in the former Yugoslavia.

193. It should also not be forgotten that the persons remaining at liberty who have been indicted by the Tribunal have been charged with extremely serious crimes - genocide, "ethnic cleansing", mass rape, murder of defenceless civilians. In the words of Benjamin Ferencz, Prosecutor before the United States Military Tribunal II sitting at Nuremberg:[12]

> "If these men be immune, then law has lost its meaning and man must live in fear".

## Notes

[1] The amici curiae were:

Professor Bartram S. Brown, Chicago-Kent College of Law, United States of America
Professor Luigi Condorelli, University of Geneva, Switzerland
Professor Marie-José Domestici-Met, University of Aix-Marseille, France
Mr. Donald Donovan, Lawyers Committee for Human Rights, United States of America
Professor Peter Malanczuk, University of Amsterdam, the Netherlands

The Max-Planck Institute for Comparative Public Law and International Law, Heidelberg, Germany
Professor Alain Pellet, University of Paris X-Nanterre, France, on his personal behalf and on behalf of Juristes sans frontières
Professor Ruth Wedgewood, Yale Law School, United States of America
Professors Annalisa Ciampi and Giorgio Gaja, University of Florence, Italy
Thomas S. Warrick, counsel for the Coalition for International Justice, Rochelle E. Stern, attorney, and Stefan Lupp, attorney, United States of America
Professor Juan Antonio Carrillo Salcedo, University of Sevilla, Spain.

The first seven of the above-mentioned persons or organizations were additionally granted leave to attend the hearing in order to respond to questions from the Judges of the Trial Chamber and to provide any further assistance the Trial Chamber might require.

[2] Rules that were amended, as opposed to "harmonized", were rules 2, 3, 11, 15, 19, 37, 38, 40 bis, 44, 47, 55, 60, 61, 64, 65, 70, 72, 77, 81, 90, 108 and 116 bis.

[3] Rules that were "harmonized" were rules 3, 6, 9, 26, 28, 40 bis, 42, 43, 46, 54, 55, 59, 59 bis, 61, 62, 64, 66-69, 72, 75, 85, 88, 91, 98, 99, 105 and 116 bis.

[4] Like UNTAES, whose mandate includes cooperating with the International Tribunal for the Former Yugoslavia and its organs in accordance with the provisions of resolution 827 (1993) of 25 May 1993 and the statute of the International Tribunal and complying with requests for assistance or orders issued by a Trial Chamber under article 29 of the statute, IFOR has - and has never denied having - a mandate that would allow it to arrest indictees.

[5] "War Crimes Suspect Complained to UN Police over Arrest Attempt", Associated Press, 7 November 1996.

[6] Hannah Arendt, in her work, Eichmann in Jerusalem, furnishes precedents for this phenomenon:

> "There was the case of Shalom Schwartzbard, who in Paris on May 25, 1996, shot and killed Simon Petlyura, former hetman of the Ukrainian armies and responsible for the pogroms during the Russian civil war that claimed about a hundred thousand victims between 1917 and 1920. [He] used his trial to show the world through court procedure what crimes against his people had been committed and gone unpunished." (p. 265).

[7] See David Matas, "Prosecuting Crimes Against Humanity: The Lessons of World War I", Fordham International Law Journal (1990).

[8] International Law Reports, vol. 36, p. 302.

[9] See the General Framework Agreement for Peace in Bosnia and Herzegovina (see A/50/790-S/1995/999):

"Noting the agreement of 29 August 1995, which authorized the delegation of the Federal Republic of Yugoslavia to sign, on behalf of the Republika Srpska, the parts of the peace plan concerning it, with the obligation to implement the agreement that is reached strictly ..." (emphasis added).

[10] See, for example, the statement of NATO Secretary-General Solana at a press conference in Sarajevo on 3 January 1997:

"Our primary mission is not to chase war criminal[s]. We have said that on so many occasions [that] it's not worth repeating. We will of course cooperate with the Tribunal, as we have done. And in the course of our mission [if] we [encounter] a war criminal, you can be sure [that] they will be where they should be."

[11] Primo Levi, The Drowned and the Saved, preface, pp. 1 and 2.

[12] Trials of War Criminals before the Nuremberg Military Tribunals, vol. IV, "The Einsatzgruppen Case", p. 53.

**ANNEX I**

**List of Public Indictments as at 1 August 1997**

| Date of confirmation | Indictment[a] |
|---|---|
| 4 November 1994 | IT-94-2-R61 (Sušica Camp)<br>Dragan Nikolić (g, v, c) |
| 13 February 1995 | IT-95-4-I (Omarska)<br>Željko Meakić (g, v, gen, c)<br>Miroslav Kvočka (g, v, c)<br>Dragoljub Prcać (g, v, c)<br>Mladen Radić (g, v, c)<br>Milojica Kos (g, v, c)<br>Momčilo Gruban (g, v, c)<br>Zdravko Govedarica (g, v, c)<br>Gruban (g, v, c)<br>Predrag Kostić (g, v, c)<br>Nedeljko Paspalj (g, v, c)<br>Milan Pavlić (g, v, c)<br>Milutin Popović (g, v, c)<br>Draženko Predojević (g, v, c)<br>Željko Savić (g, v, c)<br>Mirko Babić (g, v, c)<br>**Nikica Janjić** (g, v, c)<br>**Dušan Kneževic** (g, v, c)<br>**Dragomir Šaponja** (g, v, c) See also 21 July 1995 (Keraterm camp).<br>**Zoran Žigić** (g, v, c) |
| 13 February 1995 | IT-94-1-T/IT-94-3-I<br>Dusko Tadić (g, v, c)<br>Goran Borovnica (g, v, c) |
| 21 July 1995 | IT-95-8-I (Keraterm camp)<br>Duško Sikirica (g, v, gen, c)<br>Damir Došen (g, v, c)<br>Dragan Fuštar (g, v, c)<br>Dragan Kulundžija (g, v, c)<br>Nenad Banović (g, v, c)<br>Predrag Banović (g, v, c)<br>Goran Lajić (g, v, c)<br>Dragan Kondić (g, v, c)<br>**Nikica Janjić** (g, v, c)<br>**Dušan Kneževic** (g, v, c)<br>**Dragomir Šaponja** (g, v, c) See also 13 February 1995 (Omarska camp).<br>**Zoran Žigić** (g, v, c)<br>Nedjeljko Timarac (g, v, c) |

| | |
|---|---|
| 21 July 1995 | IT-95-9-I (Bošanski Samać)<br>Slobodan Miljković (g, v, c)<br>Blagoje Simić (g, v, c)<br>Milan Simić (g, v, c)<br>Miroslav Tadić (g, c)<br>Stevan Todorović (g, v, c)<br>Simo Zarić (g, c) |
| 21 July 1995 | IT-95-10-I (Brčko)<br>Goran Jelisić (g, v, gen, c)<br>Ranko Češić (g, v, c) |
| 25 July 1995 | IT-95-11-R61<br>Milan Martić (v) |
| 25 July 1995 | IT-95-5-R61<br>**Radovan Karadžić** (g, v, gen, c)<br>**Ratko Mladić** (g, v, gen, c) See also 16 November 1995 (Srebrenica). |
| 29 August 1995 | IT-95-12-R561 (Stupni Do)<br>Ivica Rajić (g, v) |
| 7 November 1995 | IT-95-13-R61 (Vukovar)<br>Mile Mrkšic (g, v, c)<br>Miroslav Radić (g, v, c)<br>Veselin Šljivančanin (g, v, c)<br>Slavko Dokmanović (g, v, c) |
| 10 November 1995 | IT-95-14-I (Lašva River Valley)<br>Dario Kordić (g, v, c)<br>Tihofil Blaškić (g, v, c)<br>Mario Čerkez (g, v)<br>Ivan Santić (g, v)<br>Pero Skopljak (g, v)<br>Zlatko Aleksovski (g, v) |
| 10 November 1995 | IT-95-15-I (Lašva River Valley)<br>Zoran Marinić (g, v) |
| 10 November 1995 | IT-95-16-I (Lašva River Valley)<br>Zoran Kupreškić (g, v)<br>Mirjan Kupreškić (g, v)<br>Vlatko Kupreškić (g, v)<br>Vladimir Santić (g, v)<br>Stipo Alilović (g, v)<br>Drago Josipović (g, v)<br>Marinko Katava (g, v)<br>Dragan Papić (g, v) |

| | |
|---|---|
| 16 November 1995 | IT-95-18-R61 (Srebrenica)<br>**Radovan Karadžić** (v, gen, c) See also 25 July 1995 IT-95-5-R61.<br>**Ratko Mladić** (v, gen, c) |
| 29 February 1996 | IT-96-20-T (Discontinued becuase of the death of the accused.)<br>Đorđe Đukić (v, c) |
| 21 March 1996 | IT-96-21-T (Čelebići)<br>Zejnil Delalić (g, v)<br>Zdravko Mucić (g, v)<br>Hazim Delić (g, v)<br>Esad Landžo (g, v) |
| 29 May 1996 | IT-96-22-T<br>Dražen Erdemović (v, c) |
| 26 June 1996 | IT-96-23-I (Foča)<br>Dragan Gagović (g, v, c)<br>Gojko Janković (g, v, c)<br>Janko Janjić (g, v, c)<br>Radomir Kovać (g, v, c)<br>Zoran Vuković (g, v, c)<br>Dragan Zelenović (g, v, c)<br>Dragoljub Kunarac (g, v, c)<br>Radovan Stanković (g, v, c) |
| 13 March 1997 | IT-97-24-I[b]<br>Simo Drljača (compl/gen)<br>Milan Kovačević (compl/gen) |

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[a] The following abbreviations are used in the list:

| | |
|---|---|
| g | Grave breaches of the Geneva Conventions of 1949 (article 2 of the statute of the Tribunal). |
| v | Violations of the laws or customs of war (article 3 of the statute). |
| gen | Genocide (article 4 of the statute). |
| compl/gen | Complicity in genocide (article 4 (3)(e) of the statute). |
| c | Crimes against humanity (article 5 of the statute). |
| **bold** | Accused in another indictment. |

[b] Indictment confirmed on 13 March 1997 and disclosed on 10 July 1997.

**ANNEX II**

**Detailed survey of execution or non-execution of arrest warrants by States, entities and international organizations on the territory of the former Yugoslavia**

The present annex presents a detailed survey of all the arrest warrants that have been addressed to States, entities and international organizations on the territory of the former Yugoslavia. Where possible, the last known place of residence of the indictee is indicated as well as the action, if any, taken by the State, entity or organization to which the arrest warrant was sent.

The following abbreviations are used in the survey:

BH Bosnia and Herzegovina (RBH - Republic of Bosnia and Herzegovina, before the Dayton Peace Agreement).

RC Republic of Croatia.

FRY Federal Republic of Yugoslavia.

FBH Federation of Bosnia and Herzegovina.

RS Republika Srpska, also "the Bosnian Serb authorities" or "Bosnian Serb Administration" ("BSA").

IT-94-2-R61 Dragan NIKOLIĆ (also referred to as the Sušica Camp case) (Indictment confirmed on 4 November 1994; warrant of arrest to BH and Bosnian Serb authorities on 7 November 1994; advertisement of indictment in accordance with rule 60 served to BH, 13 March 1995; international arrest warrant, 20 October 1995.) Trial Chamber I at the Nikolić rule 61 hearing found that the failure to execute the arrest warrant against Nikolić was due to Bosnian Serb authorities in RS and not to BH.

Last known place of residence: Vlasenica, in the territory of RS.

Action by **FRY**: none.

Action by **BH**: letter to the Tribunal from the BH Ministry of Justice dated 15 November 1994 explaining that BH was unable to execute the arrest warrant "because he (Nikolić) resides at the temporarily occupied territory controlled by aggressors, in fact, in the Municipality of the Vlasenica region".

Advertisement of indictment against Nikolić advertised by Radio and Television of BH on 7 April 1995.

Action by **RS**: none.

IT-94-3-I

Goran BOROVNICA (Indictment confirmed, 13 February 1995; warrant of arrest to BH and RS, 13 February 1995; advertisement of indictment in accordance with rule 60 served to BH on 23 January 1997, and to RS on 22 January 1997.)

Last known place of residence: Kozarac, in the opština of Prijedor.

Action by **BH**: letter dated 8 March 1995 informing the Tribunal that BH was unable to execute arrest warrants because the accused "reside(s) in a temporarily occupied territory controlled by the aggressor i.e., the area of Prijedor municipality".

Action by **RS**: none.

IT-95-4-I

MEAKIĆ and 18 others[a] (also referred to as the Omarska Camp case) (Indictment confirmed, 13 February 1995; warrant of arrest against Dragomir ŠAPONJA to FRY and the Bosnian Serb authorities on 13 February 1995; warrants of arrest to BH, 13 February 1995; advertisement of indictment in accordance with rule 60 served to BH and RS on 22 January 1997.)

Last known places of residence: Željko Meakić - Omarska (RS), where he is the Deputy Commander of Omarska police station; Miroslav Kvočka - Prijedor (RS), where he is a policeman at Prijedor police station; Mladen Radić - Prijedor (RS), where he is a policeman at Prijedor police station; Milojica Kos - Omarska (RS), where he owns the "Europa" restaurant; Zoran Žigić - believed to be in jail in Banja Luka (RS).

Action by **FRY**: none.

Action by **BH**: letter dated 8 March 1995 informing the Tribunal that BH was unable to execute arrest warrants because the accused "reside in a temporarily occupied territory controlled by the aggressor, i.e., the area of Prijedor municipality".

Action by **RS**: none.

IT-95-8-I

SIKIRICA and 12 others[b] (also referred to as the Keraterm Camp case) (Indictment confirmed 21 July 1995; warrant of arrest against Dragomir ŠAPONJA to FRY and all warrants of arrest to Bosnian Serb authorities on 24 July 1995; warrants of arrest to RBH on 24 July 1995; advertisement of indictment in accordance with rule 60 served to RBH and Bosnian Serb authorities, 23 January 1996.)

Last known places of residence: Duško Sikirica (the Coalition of International Justice reported that Sikirica had attempted to run for the municipal elections but was screened by the Organization for Security and Cooperation in Europe (OSCE); his address, therefore, may be known to OSCE); Nenad Banović - Prijedor (RS),

where he frequents the "Express Restaurant"; Predrag Banović - Prijedor (RS), where he frequents the "Express Restaurant"; Dragan Kondić - Prijedor (RS), where he often frequents the "The Pink" bar; Zoran Zigić - believed to be in jail in Banja Luka (RS); and Nedjeljko Timarac - Prijedor (RS), where he works at the Prijedor police station.

Action by **FRY**: none.

Action by **BH**: letter from BH to Tribunal dated 7 September 1995 informing the Registrar that the BH authorities had issued warrants to arrest the accused, but had been unable to execute them because the accused "are residing in the temporarily occupied territory controlled by the aggressor".

Action by **RS**: none.

IT-95-9-I/R61 MILJKOVIĆ and five others[c] also referred to as the Bošanski Samać case) (Indictment confirmed, 21 July 1995; warrants of arrest to BH, FRY and Bosnian Serb authorities, 24 July 1995; advertisement of indictment in accordance with rule 60 served to BH and Bosnian Serb authorities, 23 January 1996).

Last known places of residence: Slobodan Miljković - Kragujevac in Serbia, 60 miles south-east of Belgrade, awaiting trial on multiple racketeering and other charges; Blagoje Simić - said by the Coalition of International Justice to be the highest-ranking public official in Bosanski Samac and to have an office in the town hall; Stevan Todorović - according to the Coalition, he is Deputy of the local office of RS state security in Bosanski Samac, works the night shift (7 p.m.-7 a.m.) and lives in the village of Donja Slatina, "a 3-minute, 30-second drive from the American-staffed NATO base of Camp Colt, with 1,000 soldiers. His commuter route is routinely travelled by NATO patrols".

Action by **FRY**: none.

Action by **BH**: letter from BH to the Tribunal dated 12 February 1996 informing the Registrar that the indictment against these accused had been publicly announced in the media of BH.

Action by **RS**: none.

IT-95-11-R61 Milan MARTIĆ (Indictment confirmed 25 July 1995; warrant of arrest served to FRY and RC on 26 July 1995; advertisement of indictment in accordance with rule 60 served to the FRY and RC, 23 January 1996; and international arrest warrant, 8 March 1996).

Last known place of residence: Banja Luka, in the territory of RS.

Action by **FRY**: none.

Action by **RC**: none.

IT-95-13-R61 MRKŠIĆ, RADIĆ, ŠLJIVANĆANIN (also referred to as the Vukovar case) (Indictment confirmed on 7 November 1995; warrant of arrest to FRY, 8 November 1995; advertisement of indictment in accordance with rule 60 served to the FRY, 23 January 1996; and international arrest warrant, 3 April 1996.)

Last known places of residence: All in Serbia - Mrkšić in Belgrade, Radić in Cacak, Šljivanćanin in Belgrade. Sljivanćanin was promoted in Yugoslav army to full colonel and transferred to Belgrade, where he is now Head of the Centre of Advanced Military Schools in Belgrade.

Action by **FRY**: none.

Comment

At the rule 61 hearing of Vukovar, Clint Williamson of the Office of the Prosecutor said that the accused were known to be in the territory of FRY and had not been arrested (transcript of rule 61 hearing, 28 March 1996):

> "They [the Belgrade authorities] have promoted, supported and continued to pay an indicted war criminal, and to maintain him as a senior officer in their army. If these reports are correct. they now even have him training officer cadets. Can there be any more flagrant way of showing their disregard and even contempt for their obligations as a Member State of the United Nations, obligations that [FRY] recently reaffirmed by entering into the Dayton Accords? In this case it is very clear that the failure to effect personal service on the accused and to secure their arrests and transfer to The Hague is due solely to the refusal of the FRY to cooperate with the Tribunal as it is required to do."

In its 3 April 1996 decision, Trial Chamber I certified the failure of FRY to cooperate with the Tribunal and requested the President to notify the Security Council in accordance with sub-rule 61 (E). The President notified the Security Council on 24 April 1996.

IT-95-5-R61
IT-95-18-R61 Radovan KARADŽIĆ and Ratko MLADIĆ (First indictment confirmed, 25 July 1995; warrants of arrest to FRY, BH and Bosnian Serb authorities on 26 July 1995. Request for assistance by the Trial Chamber to all States issued, 2 August 1995; Second, Srebrenica indictment confirmed on 16 November 1995; warrants of arrest to BH, Bosnian Serb authorities and to FRY, enclosing the addresses of KARADŽIĆ and MLADIĆ in Belgrade, on 21 November 1995; advertisement of indictment in accordance with rule 60 in BH on 9 May 1996). The rule 61 hearing was held in July 1996 with regard to these two indictees. On 11 July 1996, Trial Chamber I certified the failure of RS and FRY to cooperate with the

Tribunal. On the same day, international arrest warrants and orders for surrender were issued in respect of the two accused. The President of the Tribunal informed the Security Council of the failure of RS and FRY to cooperate the same day.

Last known places of residence: Karadžić - Pale (RS). It is reported that Karadžić maintains a large house on a mountainside, well known to visitors. According to the Associated Press (9 November 1996), he makes little effort to conceal his daily movements. Mladić - Hides inside his headquarters in Han Pijesak (RS). Also maintains an apartment in Belgrade.

Action by **FRY**: none.

Action by **BH**: Deferral of proceedings to the Tribunal, 16 May 1995; letter from BH to the Tribunal dated 7 September 1995 informing the Registrar that the BH authorities had issued warrants to arrest the accused, but had been unable to execute them because the accused "are residing in the temporarily occupied territory controlled by the aggressor and are therefore beyond the reach of the legitimate authorities of the Republic of Bosnia and Herzegovina".

Action by **RS**: none.

IT-95-10-I JELISIĆ and ČEŠIĆ (also referred to as the Brčko case) (Indictment confirmed on 21 July 1995; warrants of arrest to BH and Bosnian Serb authorities, 21 July 1995; and advertisement of indictment in accordance with rule 60 served to BH and Bosnian Serb authorities on 23 January 1996).

Last known place of residence: Jelisić - Bijeljina (RS).

Action by **BH**: letter from BH to Tribunal dated 12 February 1996 informing the Registrar that the indictment against these accused had been publicly announced in the media of BH.

Action by **RS**: none.

IT-95-12-R61 Ivica RAJIĆ, a.k.a. Viktor ANDRIĆ (also known as the Stupni Do case) (Indictment confirmed on 29 August 1995; warrant of arrest to BH and FBH on 29 August 1995; warrant of arrest to RC on 8 December 1995; advertisement of indictment in accordance with rule 60 served to BH, RC and FBH on 23 January 1996; and international arrest warrant and order for surrender on 13 September 1996).

Last known place of residence: Rajić was in the custody of FBH in Mostar at the time the indictment was confirmed (see para. 7 of the indictment dated 23 August 1995) and at the time of the issuance of the arrest warrant. According to the Prosecutor, Rajić was tried, acquitted and released. At the rule 61 hearing,

the Prosecutor added that Rajić was reported to be in Kiseljak last January. The Bosnian Ministry of the Interior provided the Prosecutor with information according to which Rajić had moved to Mostar. It now appears that he could be living in Croatia (see rule 61 hearing transcripts, 2 April 1996, pp. 152 and 153). He is reported to have been living in a government-owned hotel in Split, Croatia, but since to have left.

Action by **BH**: on 8 February 1996, the BH Minister of Justice informed the Registrar that the indictment against Rajić had been advertised on the radio and television of BH, Independent Radio Studio 99, Independent Television 99, Independent Television Hayat and in Oslobodenje and Avaz, daily newspapers with a wide circulation in BH.

Action by **RC**: none.

Action by **FBH**: none.

IT-95-14-I KORDIĆ and five others,[d] including Tihofil BLASKIĆ (also known as the Lašva River Valley case) (Indictment confirmed on 10 November 1995; warrants of arrest to BH, RC and FBH on 14 November 1995; and advertisement of the indictment in accordance with rule 60 served to RC on 13 December 1996.)

Last known places of residence: Dario Kordić - reportedly owns a flat in Zagreb; Mario Čerkez-Vitez (Bosnian Croat territory); and Ivan Santić - Vitez; Pero Skopljak - Vitez, where he runs a printing company from home.

Action by **BH** and **FBH**: letter from BH to the Tribunal dated 29 January 1996 informing the Registrar that the BH authorities had taken all the necessary measures to arrest the accused, but that all accused are in the territory of FBH controlled by the Croatian Defence Council, with the exception of Blaskić, who was in RC. On 13 January 1997, BH, responding also on behalf of FBH, informed the Tribunal that advertisements had been published in various newspapers and broadcast on all news programmes.

Action by **RC**: Zlatko Aleksovki has been arrested in Split, on 8 June 1996, and was transferred by the Croatian authorities to The Hague in early 1997.

Mention should also be made of the voluntary surrender of Mr. Blaškić on 1 April 1996. According to the Prosecutor, the arrival of Mr. Blaškić in The Hague was the result of a number of discussions with the Croatian government which has been cooperative in reaching a compromise regarding the voluntary surrender of the accused.

There are reports that two Bosnian Croats accused in the Lašva River Valley indictment, Pero Skopljak and Ivan Santić, as well

as Ivica Rajić, accused in the Stupni Do indictment, are being kept under house arrest in the Duilovo Holiday Resort near Split, Croatia, by the Croatian authorities. It has also been alleged that Dario Kordić continues to reside in a government-owned flat in Zagreb, and regularly attends HDZ meetings where top government officials are present; according to other reports, he has been seen on Croatian-controlled television (HRTV). In response to a letter of 11 July 1996 of the Tribunal's President to the President of the Republic of Croatia, enquiring about the veracity of these allegations about Kordić, the Deputy Foreign Minister of the Republic of Croatia, in a letter of 18 July 1996, averred that if the Croatian authorities had "had reliable information about the alleged presence of Mr. Kordić on the territory of the Republic of Croatia they would certainly have taken the appropriate steps according to law".

IT-95-15-I Zoran MARINIĆ (Indictment confirmed on 10 November 1995; warrant of arrest to BH on 8 December 1995; advertisement of indictment in accordance with rule 60 served to BH and RC on 13 December 1996.)

Action by **BH** and **FBH**: letter from Federal Justice Minister of BH on 19 September 1996 to Judge Cassese, President of the Tribunal, submitting the final decision on the extradition of, inter alia, Zoran Marinić. On 13 January 1997, BH, responding also on behalf of FBH, informed the Tribunal that the advertisements had been published in various newspapers and had been broadcast on all news programmes.

Action by **RC**: none.

IT-95-16-I Zoran KUPREŠKIĆ and others[e] (Indictment confirmed on 10 November 1995; warrant of arrest to BH on 8 December 1995; and advertisement of indictment in accordance with rule 60 served to BH and RC on 13 December 1996).

Last known places of residence: Zoran Kupreškić - Vitez (Bosnian Croat territory), where he owns a grocery shop with his brother and cousin; Mirjan Kupreškić - Vitez (Bosnian Croat territory), where he owns a grocery shop with his brother and cousin; Vlatko Kupreškić - Vitez (Bosnian Croat territory), where he owns a grocery shop with his cousins; Vladimir Santić - Vitez; Drago Josipović - Santici, just east of Vitez (Bosnian Croat territory); Marinko Katava - Vitez (Bosnian Croat territory).

Action by **BH** and **FBH**: letter from Federal Justice Minister of BH on 19 September 1996 to the President of the Tribunal, submitting the final decision on the extradition of Zoran Kupreškić and others. Also, letter from Judge Vidović, Liaison Officer at the Embassy of Bosnia and Herzegovina, The Hague, dated 9 December 1996 to the Registrar of the Tribunal: "warrants of arrest and surrender regarding Zoran Kupreškić, Mirjan Kupreškić,

Vlatko Kupreškić, Stipo Alilovic, Drago Josipović, Marinko Katava and Dragan Prpic were handed over directly to Deputy Minister of Interior and the Head of Security Service of R/F of BH Mr. Nedzad Ugljen by representative of the Prosecutor Office." On 17 November 1995 Judge Vidović forwarded warrants of arrest and surrender for Dario Kordić, Mario Čerkez, Ivan Santić, Pero Skopljak, Zlatko Aleksovski and Tihomir Blaškić to the Ministry of Justice and Deputy Minister of Justice of the Federation of Bosnia and Herzegovina. The same material was forwarded to the Deputy Minister of Foreign Affairs, and, on 16 November 1995, to the Herceg-Bosna authorities in Mostar, with the request for it to be delivered to the Minister of Justice. Mrs. Vidović informed the Tribunal on 13 January 1997 that, "acting under the warrants of arrest and surrender, the Supreme Court of Bosnia and Herzegovina by its decision No. K-10/95 of 07.12.1995 approved of [the] surrender of war criminals to ICTY." On 13 January 1997, BH, responding also on behalf of FBH, informed the Tribunal that the advertisements had been published in various newspapers and had been broadcast on all news programmes.

Action by **RC**: none.

IT-96-21-T DELALIĆ, DELIĆ, MUCIĆ and LANDŽO (also referred to as Celebići case) (Indictment confirmed on 21 March 1996; 2 warrants of arrest to BH (Delić and Landžo), on 21 March 1996).

Action by **BH**: Delić and Landžo have been arrested by the BH authorities and transferred to the Tribunal, where they are currently standing trial.

IT-96-23-I Dragan GAGOVIĆ and others[f] (also known as Foča) (Indictment confirmed, 26 June 1996; warrants of arrest to BH, FBH and RS on 27 June 1996; and advertisement of the indictment in accordance with rule 60 served on BH, FBH and RS on 10 December 1996).

Last known places of residence: Dragan Gagović - Chief of Police in Foča (RS); Gojko Janković - Foča (RS), where he was seen by a journalist in a café frequented by French IFOR soldiers (Sunday Times, 28 July 1996); Radomir Kovać - Foča, reportedly working for the local police; Dragan Zelenović - Foča, reportedly working for the local police; Radovan Stanković - Foča, reportedly working for the local police. In August 1996, Stanković was nearly arrested by local police, but he escaped. He later filed a complaint with the International Police Task Force alleging harassment by those police forces. The Task Force recorded the complaint and made no attempt to arrest Stanković.

Action by **BH** and **FBH**: On 16 December 1996, BH, responding also on behalf of FBH, informed the Tribunal that the advertisements had been published in three newspapers and had also appeared on the television news.

Action by **RS**: none.

## International organizations

### North Atlantic Treaty Organization/Implementation Force/ Stabilization Force

IT-95-7-Misc4 Order issued by Judge Jorda for copies of indictments, reviews of indictments, warrants of arrest and orders for surrender to be forwarded to IFOR, 24 December 1995; served to IFOR on 29 December 1995.

Action by SFOR: arrested Milan Kovačević on 11 July 1997 in Prijedor and transferred him to the custody of the Tribunal. Attempted to arrest Simo Drljača who, however, died when he opened fire on the troops trying to arrest him and they returned fire in self-defence.

International arrest warrant

The following international arrest warrants have also been sent to IFOR/SFOR:

Martić: international arrest warrant issued to IFOR on 15 March 1996;

Šljivančanin: international arrest warrant issued to IFOR on 3 April 1996;

Radić: international arrest warrant issued to IFOR on 3 April 1996;

Mrksić: international arrest warrant issued to IFOR on 3 April 1996;

Karadžić: international arrest warrant issued to IFOR on 11 July 1996;

Mladić: international arrest warrant issued to IFOR on 11 July 1996;

Rajić: international arrest warrant issued to IFOR on 13 September 1996.

**United Nations Transition Administration for Eastern Slavonia, Baranja and Western Sirmium**

IT-95-13-I Arrest warrant for Slavko Dokmanović sent to UNTAES on 3 April 1996.

Action taken: assisted in the arrest of Slavko Dokmanović on 27 June 1997 and his transfer to The Hague.

Notes

[a] Željko Meakić, Miroslav Kvočka, Dragoljub Preać, Mladen Radić, Milojica Kos, Momčilo Gruban, Zdravko Govedarica, Gruban, Predrag Kostić, Nedeljko Paspalj, Milan Pavlić, Milutin Popović, Drazenko Predojević, Željko Savić, Mirko Babić, Nikica Janjić, Dušan Knezević, Dragomir Šaponja and Zoran Žigić.

[b] Duško Sikirica, Damir Došen, Dragan Fuštar, Dragan Kulundzija, Nenad Banović, Predrag Banović, Goran Lajić, Dragan Kondić, Nikica Janjić, Dušan Knezević, Dragomir Šaponja, Zoran Zigić and Nedjeljko Timarac.

[c] Slobodan Miljković, Blagoje Simić, Milan Simić, Miroslav Tadić, Stevan Todorović and Simo Zarić.

[d] Dario Kordić, Tihofil Blaškić, Mario Čerkez, Ivan Santić, Pero Skopljak and Zlatko Aleksovski.

[e] Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Vladimir Santić, Stipo Alilović, Drago Josipović, Marinko Katava and Dragan Papić. (The purported death of Mr. S. Alilović on 25 October 1996 in Amsterdam was confirmed by documents received by the Tribunal from the Supreme Court of the Government of BH.)

[f] Dragan Gagović, Gojko Janković, Janko Janjić, Radomir Kovać, Zoran Vuković, Dragan Zelenović, Dragoljub Kunarac and Radovan Stanković.

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